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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notification Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त एवं कम्पनी कार्य मंत्रालय
(राजस्व विभाग)

आदेश

नई दिल्ली, 19 दिसम्बर, 2002

स्टाम्प

का.आ. 516.— भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा ट्रांसमिशन कारपोरेशन ऑफ आन्ध्र प्रदेश लिमिटेड, हैदराबाद को मात्र दो करोड़ तेईस लाख चार हजार दो सौ पचास रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त कम्पनी द्वारा जारी किए जाने वाले, मात्र दो सौ सत्तानबे करोड़ उन्तालीस लाख रुपये के समग्र मूल्य के ऋणपत्रों के स्वरूप वाले 10.90 प्रतिशत, 11.30 प्रतिशत और 11.60 प्रतिशत अपरिवर्तनीय विमोच्य असुरक्षित विद्युत बंधपत्रों (श्रृंखला 1/2002) पर स्टाम्प शुल्क के कारण प्रभाय है।

[सं. 55/2002-स्टाम्प/फा.सं. 33/76/2000-बि.क.]

आर. जी. छाबड़ा, अवर सचिव

MINISTRY OF FINANCE AND COMPANY AFFAIRS
(Department of Revenue)

ORDER

New Delhi, the 19th December, 2002

STAMPS

S.O. 516.—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Transmission Corporation of Andhra Pradesh Limited, Hyderabad to pay consolidated stamp duty of rupees two crore twenty three lakh four thousand two hundred fifty only

(1349)

on account of the stamp duty on 10.90%, 11.30% and 11.60% Non-Convertible Redeemable Unsecured Vidyut Bonds (Series 1/2002) in the nature of debentures aggregating to rupees two hundred ninety seven crore thirty nine lakh only, by the said company.

[No. 55/2002-Stamp/F.No. 33/76/2002-ST]

R. G. CHHABRA, Under Secy.

आदेश

नई दिल्ली, 19 दिसम्बर, 2002

स्टाम्प

का.आ. 517.— भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा पंजाब एंड सिंध बैंक, नई दिल्ली को मात्र पैंतालीस लाख रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है जो उक्त बैंक द्वारा 22 अक्टूबर, 2002 को आवंटित मात्र पैंतालीस करोड़ रुपये के समग्र मूल्य के प्रोमिसरी नोटों के स्वरूप वाले प्रत्येक एक-एक लाख रुपये के असुरक्षित, विमोच्य बंधपत्रों पर स्टाम्प शुल्क के कारण प्रभार्य है।

[सं. 54/2002-स्टाम्प/फा.सं. 33/77/2002-बि.क.]

आर. जी. छाबड़ा, अवर सचिव

ORDER

New Delhi, the 19th December, 2002

STAMPS

S.O. 517.—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Punjab and Sind Bank, New Delhi to pay consolidated stamp duty of rupees forty five lakh only chargeable on account of the stamp duty on Unsecured Redeemable bonds in the nature of promissory notes of rupees one lakh each aggregating to rupees forty five crore only allotted on 22nd October, 2002 by the said Bank.

[No. 54/2002-Stamp/F. No. 33/77/2002-ST]

R. G. CHHABRA, Under Secy.

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 23 जनवरी, 2003

(आयकर)

का.आ. 518.— आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री पद्मनाभस्वामी टेम्पल, त्रिवेन्द्रम, केरल" को वर्ष 1999-2000 से 2001-2002 तक के कर निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त खंड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा जिनके लिए इसकी स्थापना की गई है,
- (ii) कर निर्धारिती उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि (जेवर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु आदि के रूप में प्राप्त तथा अनुरक्षित स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा,
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों,
- (iv) कर निर्धारिती आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगा,
- (v) विघटन के स्थिति में अतिरिक्त राशियां और परिसम्पत्तियां समान उद्देश्यों वाले धर्मार्थ संगठन को दे दी जाएंगी।

[अधिसूचना सं. 23/2003/फा. सं. 197/04/2003-आई टी ए-1]

आई. पी. एस. बिन्द्रा, अवर सचिव

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 23rd January, 2003

(INCOME TAX)

S.O. 518.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Sree Padmanabhaswamy Temple, Trivandrum, Kerala” for the purpose of the said sub-clause for the assessment years 1999-2000 to 2001-2002 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business;
- (iv) the assessee will regularly file its return of income before the Income-tax authority in accordance with the provisions of the Income-tax Act, 1961;
- (v) that in the event of dissolution, its surplus and the assets will be given to a charitable organization with similar objectives.

[Notification No. 23/2003/F. No. 197/04/2003-ITA-I]

I.P.S. BINDRA, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 3 फरवरी, 2003

का.आ. 519.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस 415 : 2002-शटल कॉक—विशिष्ट (तीसरा पुनरीक्षण)	आईएस 415 : 1978	2002-08-31
2.	आईएस 715 : 2002-लेपित अपघर्षक—विशिष्ट (चौथा पुनरीक्षण)	आईएस 715 (भाग 1 एवं 2) : 1976	2002-07-31
3.	आईएस 1090 : 2002-संपीड़ित हाईड्रोजन—विशिष्ट (तीसरा पुनरीक्षण)	आईएस 1090 : 1983	2002-09-30
4.	आईएस 1715 : 2002-स्व-धारक टेपर्स—आयाम (तीसरा पुनरीक्षण)	आईएस 1715 : 1986	2002-07-31
5.	आईएस 2266 : 2002-सामान्य इंजीनियरी कार्यों के लिए इस्पात तार के रस्से—विशिष्ट (चौथा पुनरीक्षण)	आईएस 2266 : 1989	2002-09-30

(1)	(2)	(3)	(4)
6.	आईएस 2361 : 2002-बुलडॉग ग्रिप—विशिष्ट (तीसरा पुनरीक्षण)	आईएस 2361 : 1994	2002-08-31
7.	आईएस 2399 : 2002-रोलिंग बियरिंग—शब्दावली (दूसरा पुनरीक्षण)	आईएस 2399 : 1988	2002-08-31
8.	आईएस 2840 : 2002-सिरामिक उद्योग के लिए चीनी मिट्टी—विशिष्ट (दूसरा पुनरीक्षण)	आईएस 2840 :	2002-08-31
9.	आईएस 2857 : 2002-क्राकरी वेयर—विशिष्ट (तीसरा पुनरीक्षण)	आईएस 2857 : 1995	2002-08-31
10.	आईएस 3008 : 2002-जूते काले करने वाले ब्रुश—विशिष्ट (तीसरा पुनरीक्षण)	आईएस 3008 : 1993	2002-08-31
11.	आईएस 3595 : 2002-औद्योगिक भवनों में आग से सुरक्षा हेतु रीति संहिता : कोयला चूर्णक और सम्बद्ध उपस्कर (दूसरा पुनरीक्षण)	आईएस 3595 : 1984	2002-08-31
12.	आईएस 3822 : 2002-जंजीर के साथ प्रयुक्त आई हुक—विशिष्ट (दूसरा पुनरीक्षण)	आईएस 3822 : 1982	2002-08-31
13.	आईएस 4333 (भाग 2) : 2002-खाद्यान्नों की विश्लेषण पद्धति भाग 2 आर्द्रता की मात्रा का निर्धारण (पहला पुनरीक्षण)	आईएस 4333 (भाग 2) : 1967	2002-10-31
14.	आईएस 4333 (भाग 3) : 2002-खाद्यान्नों की विश्लेषण पद्धति भाग 2 हेप्टोलीटर भार का निर्धारण (पहला पुनरीक्षण)	आईएस 4333 (भाग 3) : 1967	2002-10-31
15.	आईएस 4333 (भाग 4) : 2002-खाद्यान्नों की विश्लेषण पद्धति भाग 4 1000 दसों के द्रव्यमान का निर्धारण (पहला पुनरीक्षण)	आईएस 4333 (भाग 4) : 1968	2002-10-31
16.	आईएस 4473 : 2002-घरेलू द्रवित पेट्रोलियम गैसों के साथ प्रयुक्त गैस ओवन—विशिष्ट (पहला पुनरीक्षण)	आईएस 4473 : 1967	2002-08-31
17.	आईएस 4888 (भाग 1) : 2002-वस्त्रादि मशीनरी और सहायकांग—क्रॉस वाइडिंग के लिए शंकु भाग 1 अर्धकोण 3° 30' वाले शंकुओं के आयाम, छुटें और अभिनाम (तीसरा पुनरीक्षण)	आईएस 4888 (भाग 1) : 1982	2002-09-30
18.	आईएस 4888 (भाग 2) : 2002-वस्त्रादि मशीनरी और सहायकांग—क्रॉस वाइडिंग के लिए शंकु भाग 2 अर्धकोण 4° 20' वाले शंकुओं के आयाम, छुटें और अभिनाम (तीसरा पुनरीक्षण)	आईएस 4888 (भाग 2) : 1982	2002-09-30

(1)	(2)	(3)	(4)
19.	आईएस 4888 (भाग 3) : 2002-वस्त्रादि मशीनरी और सहायकांग—क्रॉस वाइडिंग के लिए शंकु भाग 3 अर्धकोण 5° 57' वाले शंकुओं के आयाम, छुटें और अभिनाम (तीसरा पुनरीक्षण)	आईएस 4888 (भाग 3) : 1982	2002-09-30
20.	आईएस 5267 : 2002-गियर शब्दावली—वर्ग विषय ज्यामिति से संबंधित परिभाषाएं (पहला पुनरीक्षण)	आईएस 5267 : 1969	2002-10-31
21.	आईएस 5887 (भाग 8/अनु 2) : 2002-खाद्य विपाकता के लिए उत्तरदायी जीवाणुओं के पहचान की पद्धतियाँ भाग 8 स्कंदित सकारात्मक स्टेफाइलोकोकाई की गणना के लिए होरिजेन्टल पद्धति अनुभाग 2 खरगोश जीवद्रव्य फाइब्रीनोजन अगार माध्यम का उपयोग करने वाली तकनीक	आईएस 5887 : 1976	2002-08-31
22.	आईएस 6613 : 2002-एल्कोहॉल्लिए पेयों के लिए उदासीन स्प्रिट—विशिष्ट (पहला पुनरीक्षण)	आईएस 6613 : 1992	2002-08-31
23.	आईएस 6869 (भाग 6) : 2002-उपवन के लिए खेल—मैदान उपकरण—विशिष्ट (भाग 6 झूले)	—	2002-07-31
24.	आईएस 6978 : 2002-शतरंज के उपकरण—विशिष्ट (पहला पुनरीक्षण)	आईएस 6978 : 1973	2002-07-31
25.	आईएस 6988 : 2002-फाइन (बोन) चायना क्रॉकरीवेयर—विशिष्ट (दूसरा पुनरीक्षण)	आईएस 6988 : 1994	2002-08-31
26.	आईएस 7028 (भाग 12) : 2002-पूरे भरित परिवहन पैकेज का कार्यकारिता परीक्षण भाग 12 ज्वावक्रीय परिवर्ती आवृत्ति का प्रयोग करते हुए कंपन परीक्षण (पहला पुनरीक्षण)	आईएस 7028 (भाग 12) : 1987	2002-08-31
27.	आईएस 7513 (भाग 2) : 2002-द्रव्य शक्ति तंत्र व घटक—ग्राफीय सूचक व सर्किट आरेख भाग 2 सर्किट आरेख	—	2002-07-31
28.	आईएस 7670 : 2002-वायु आकाशीय अनुप्रयोगों हेतु एल्युमीनियम धातुओं से बनी फोर्जिंग स्टाक एवं फोर्जिंग (उत्थापित तापमानों में प्रचालित घटकों के लिए) (मिश्र धातु 22588)—विशिष्ट (पहला पुनरीक्षण)	आईएस 7670 : 1975	2002-08-31
29.	आईएस 8711 : 2002-गैप फ्रेम सामने से खुली यांत्रिकी प्रेसों की क्षमता का संनिर्धारण तथा आयाम (पहला पुनरीक्षण)	आईएस 8711 : 1978	2002-09-30
30.	आईएस 8749 : 2002-बायोगैस स्टोव—विशिष्ट (दूसरा पुनरीक्षण)	आईएस 8749 : 1988	2002-08-31

(1)	(2)	(3)	(4)
31.	आईएस 8788 : 2002-मीटरी बाह्य टेपर और आंतरिक सामानान्तर पेंच चूड़ी के लिए आयाम (दूसरा पुनरीक्षण)	आईएस 8788 : 1993	2002-09-30
32.	आईएस 8805 : 2002-तेल द्रवचालित पद्धति में प्रयुक्त फेरुल किस्म के युग्मन की सामान्य अपेक्षाएं (पहला पुनरीक्षण)	आईएस 8805 : 1978	2002-09-30
33.	आईएस/आईएसओ 9001 : 2002-गुणता प्रबन्ध पद्धति—अपेक्षाएं (दूसरा पुनरीक्षण)	आईएस/आईएसओ 9001 : 2000	2002-09-30
34.	आईएस 9018 (भाग 1) : 2002-निर्धारित गुणता वाले क्वार्ट्ज क्रिस्टल नियंत्रित दोलित्र भाग 1 सामान्य विशिष्टि (पहला पुनरीक्षण)	आईएस 9018 (भाग 1) : 1978	2002-07-31
35.	आईएस 9020 : 2002-शक्ति चालित गहवाई मशीन (श्रेसर)-सुरक्षा संबंधी अपेक्षाएं (पहला पुनरीक्षण)	आईएस 9020 : 1979 आईएस 9129 : 1979 और आईएस 10618 : 1983	2002-09-30
36.	आईएस 9282 : 2002-निलम्बन वाले पुलों के लिए तार रस्से और लड़े-विशिष्टि (पहला पुनरीक्षण)	आईएस 9282 : 1979	2002-08-31
37.	आईएस 9404 : 2002-ताप बिजलीघर में प्रयुक्त पाइप लाइन की पहचान-रंग कोड (पहला पुनरीक्षण)	आईएस 9404 : 1979	2002-08-31
38.	आईएस 9439 : 2002-जल कूपों वेधन प्रौद्योगिकी में प्रयुक्त पारिभाषिक शब्दावली (पहला पुनरीक्षण)	आईएस 9439 : 1980	2002-08-31
39.	आईएस 9813 : 2002-ट्रैक्टर-चालित ब्लेड टैरेसर-विशिष्टि (पहला पुनरीक्षण)	आईएस 9813 : 1981 और आई एस 7353 : 1974	2002-08-31
40.	आईएस 9832 : 2002-कॉस्मेटिक पेंसिल-विशिष्टि (पहला पुनरीक्षण)	आईएस 9832 : 1981	2002-08-31
41.	आईएस 9972 : 2002-अग्नि संरक्षण सेवा हेतु स्वचालित स्प्रिंकलर हैड की विशिष्टि (पहला पुनरीक्षण)	आईएस 9972 : 1981	2002-09-30

(1)	(2)	(3)	(4)
42.	आईएस 10187 : 2002- द्रव चालित तरल शक्ति-चार छेद वाले दिशात्मक नियंत्रक वाल्व-आरोपण सतहें (पहला पुनरीक्षण)	आईएस 10817 : 1982	2002-10-31
43.	आईएस 10278 : 2002- स्वचल वाहन-दुपहिया वाहनों की अधिकतम गति-मापन पद्धति (दूसरा पुनरीक्षण)	आईएस 10278 : 1993	2002-09-30
44.	आईएस 10555 : 2002- अल्पशक्तिकत वर्मीक्यूलाई-विशिष्ट (पहला पुनरीक्षण)	आईएस 10555 : 1983	2002-08-31
45.	आईएस 11337 : 2002- द्रवचालित सिलिंडरों की क्रय विशिष्टियाँ (पहला पुनरीक्षण)	आईएस 11337 : 1985	2002-08-31
46.	आईएस 11475 : 2002- स्टोनवेयर क्रॉकरीवेयर-विशिष्ट (दूसरा पुनरीक्षण)	आईएस 11475 : 1994	2002-08-31
47.	आईएस 11601 : 2002- संश्लिष्ट डिटरजेंटों के सुरक्षा मूल्यांकन की पद्धतियाँ-संश्लिष्ट डिटरजेंटों से त्वचा में होने वाली जलन और सुग्रहिता संभावनाओं की परीक्षण (पहला पुनरीक्षण)	आईएस 11601 (भाग 1) : 1986 आईएस 11601 (भाग 2) : 1992	2002-09-30
48.	आईएस 12734 : 2002- वस्त्रादि-पोलीप्रापलीन द्विवन-विशिष्ट (पहला पुनरीक्षण)	आईएस 12734 : 1989	2002-09-30
49.	आईएस 13010 : 2002- ए सी वाट घंटा मोटर, क्लास 0.5, 1 और 2 विशिष्ट (पहला पुनरीक्षण)	आईएस 13010 : 1990	2002-09-30
50.	आईएस 13420 (भाग 1) : 2002- टेलीविजन और ध्वनि संकेतों के लिए केबलकृत वितरण तंत्र भाग 1 मापन विधियाँ और तंत्र कार्यकारिता (दूसरा पुनरीक्षण)	आईएस 13420 (भाग 1) : 1994	2002-09-30
51.	आईएस 13988 : 2002- स्वचल वाहन-गाड़ी चालू करने के ग्रेड निर्धारण योग्यता-मापन पद्धति (पहला पुनरीक्षण)	आईएस 13988 : 1994	2002-09-30
52.	आईएस 14202 (भाग 3) : 2002- सूचना प्रौद्योगिकी-पहचान पत्र-सम्पर्क सहित एकीकृत परिपथ भाग 3 इलैक्ट्रानिकी संकेत और प्रसारण संलेख	—	2002-09-30

(1)	(2)	(3)	(4)
53.	आईएस 14357 : 2002- सूचना प्रौद्योगिकी-सूचना सुरक्षा प्रबन्ध की रीति संहिता (पहला पुनरीक्षण)	आईएस 14357 : 1996	2002-08-31
54.	आईएस 14700(भाग 6/अनु 3) : 2002- विद्युत चुम्बकीय संगतता (ई एम सी) भाग 6 सामान्य मानक अनुभाग 3 आवासीय, व्यापारिक और सरल औद्योगिक वातावरण के लिए उत्सर्जन मानक	—	2002-09-30
55.	आईएस 14988(भाग 2) : 2002- खाद्य और पशु आहार सामग्री की सूक्ष्म जैविकी-लिस्टेरिया मानोसाइटोजन की पहचान और गणना के लिए होरिजेन्टल प्रणाली भाग 2 गणन पद्धति	—	2002-08-31
56.	आईएस 15072 : 2002- प्रसाधन सामग्री, अपमार्जक द्रव्य और अन्य औद्योगिक प्रयोजनों के लिये सोडियम अल्फा ओलिफिन सल्फोनेट-विशिष्ट	—	2002-06-30
57.	आईएस 15139 : 2002- स्वचल वाहन-सुरक्षा पेंटी स्थिरक-विशिष्ट	—	2002-07-31
58.	आईएस 15143 : 2002- भूमिगत खानों और इसी प्रकार के अन्य खतरनाक अनुप्रयोगों के लिए इलास्टोमरीय और इस्पात-डोरी-संरचना के वाहक पट्टे-विशिष्ट	—	2002-09-30
59.	आईएस 15144 : 2002- अर्धवेलनाकार दाबीय छिद्रों के साथ गोल कोने वाले परिवर्त्य कठोर धातु (कार्बाइड) के इंसर्ट-हल्के मिश्र धातु और प्लास्टिक अवयवों के खरादन के लिए 70 साधारण मुक्तांतर वाले इंसर्टों के आयाम	—	2002-08-31
60.	आईएस 15145 : 2002- सीधे घूर्णी जलकूप वेधन रिंग के लिए गोल केली-अपेक्षाएं	—	2002-08-31
61.	आईएस 15148 : 2002- पट्टा चालन-वी-उभरी धारीदार पट्टे, जुड़े हुए वी-पट्टे तथा पटकोणीय पट्टे, चौड़े काट के पट्टों सहित-अस्थैतिक पट्टों की विद्युत संवाहकता : लक्षण एवं परीक्षण विधियाँ	—	2002-07-31
62.	आईएस 15152 : 2002- बाल हटाने के लिए ठंडा मोम-विशिष्ट	—	2002-08-31
63.	आईएस 15153 : 2002- पेन्स पैक-विशिष्ट	—	2002-08-31

(1)	(2)	(3)	(4)
64.	आईएस 15172 : 2002- तार और बिटूमनी सामग्री की परीक्षण विधियाँ-कटबैक बिटूमेन के संसाधन बिन्दु (क्यूरिंग इंडेक्स) का निर्धारण	—	2002-08-31
65.	आईएस 15174 : 2002- तार और बिटूमनी सामग्री की परीक्षण विधियाँ-ऋकयनीय बिटूमेन पायस के भंजन बिन्दु का निर्धारण	—	2002-08-31
66.	आईएस 15175 : 2002- सतः आच्छादित कृषि हेतु संरचनायें-कुहासा कक्ष का संस्थापन और संचालन-मार्गनिर्देश	—	2002-08-31
67.	आईएस 15176 : 2002- खाद्य स्वच्छता-सूक्ष्म जैवकीय खतरों की जोखिम अवलोकन हेतु सिद्धान्त एवं दिशा-निर्देश	—	2002-08-31
68.	आईएस 15177 : 2002- सतह आच्छादित कृषि-प्लास्टिक की पलवाल (प्लास्टिक मल्लव) करना-रीति संहिता	—	2002-09-30
69.	आईएस 15180 : 2002- निकटतम क्षैतिज एक परत रूपों वाली कोयला खानों में अवतलन और सम्बद्ध मापदण्डों के पूर्वानुमान में प्रयुक्त दिशानिर्देश	—	2002-07-31
70.	आईएस 15181 : 2002- द्रवचालित तरल शक्ति-मापन तकनीकें भाग 2 आवरित तारनाली में औसत स्थाई अवस्था दाब का मापन	—	2002-09-30
71.	आईएस 15182 : 2002- प्रोपीकोनेजॉल ई.सी.-विशिष्ट	—	2002-08-31
72.	आईएस 15183 (भाग 1) : 2002- इमारतों के रखरखाव की व्यवस्था के लिए मार्गदर्शी सिद्धान्त भाग 1 सामान्य	—	2002-08-31
73.	आईएस 15183 (भाग 2) : 2002- इमारतों के रखरखाव की व्यवस्था के लिए मार्गदर्शी सिद्धान्त भाग 2 वित्त	—	2002-08-31
74.	आईएस 15184 : 2002- साईकिल-इस्पात बॉल-विशिष्ट	—	2002-08-31
75.	आईएस 15189 : 2002- सूचना प्रौद्योगिकी-केवल पढ़ने वाली 120 मिमी प्रकाशिक आँकड़ा चकतियों पर आँकड़ा अंतर्परिवर्तन (सीडी-रौम)	—	2002-08-31

(1)	(2)	(3)	(4)
76.	आईएस 15190 (भाग 1) : 2002- एसीटिलीन पाईपलाइन-रीति संहिता भाग 1 दाब 150 केपीए (जी) तक	—	2002-08-31
77.	आईएस 15198 : 2002- मानव संसाधन विकास की पारिभाषिक शब्दावली	—	2002-08-31
78.	आईएस 15201 : 2002- हाइड्रोजन-सुरक्षा संहिता	—	2002-09-30
79.	आईएस 15202 (भाग 1) : 2002- सांख्यिकीय प्रक्रिया नियंत्रण (एसपीसी) को कार्यान्वित करने हेतु मार्गदर्शी सिद्धान्त भाग 1 एसपीसी के तत्व	—	2002-08-31
80.	आईएस 15203 : 2002- वस्त्रादि-उच्च तापमान पर कृत्रिम प्रकाश के प्रतिरंग का पक्कापन ज्ञात करने की पद्धति -जीनॉन आर्क फेडिंग लैम्प परीक्षण	—	2002-09-30
81.	आईएस 15204 : 2002- माइक्रोवेव फैराइट घटक-मुख्य गुणधर्मों के लिए मापन पद्धतियाँ	—	2002-09-30
82.	आईएस 15206 : 2002- कार्यस्थल पर वायु-कार्बन मोनोऑक्साइड की द्रव्यमान सांद्रता का निर्धारण-प्रत्यक्ष संसूचन सहित अल्पावधि के लिए नमूने लेने हेतु सूचन नलिकाओं का प्रयोग करते हुए विधि	—	2002-07-31
83.	आईएस 15207 : 2002- कार्यस्थल पर वायु-वाष्पीय क्लोरीनीकृत हाइड्रोकार्बनों का निर्धारण-चारकोल नलिका/बिलायक अनअधिशोषण/गैस क्रोमेटोग्राफीय विधि	—	2002-08-31
84.	आईएस 15208 : 2002- एकदिशीय गैर-बुने अर्ध-अभिसाधित काँच के रेशों के टेप-विशिष्ट	—	2002-09-30
85.	आईएस 15216 : 2002- मौसम विज्ञान संबंधी गुब्बारे	—	2002-09-30
86.	आईएस 15219 : 2002- एल्यूमीनियम फोस्फाइट पाउडर फोरम्यूलेशन	—	2002-09-30
87.	आईएस 15233 : 2002- ग्लूफेसीनेट एमोनियम एस.एल.-विशिष्ट	—	2002-09-30
88.	आईएस 15246 : 2002- मशीन टूलस-मशीनिंग केन्द्रों के लिए स्पिंडल होल्डर्स के फ्रंट फेसिस- कार्यात्मक आयाम	—	2002-09-30

(1)	(2)	(3)	(4)
89.	आईएस 15254 : 2002- प्रतिभूतियाँ-प्रमाणपत्रों का क्रमांकन	—	2002-10-31
90.	आईएस 15257 : 2002- ज्यामितीय अभिविन्यास तथा गति की दिशाएँ	—	2002-09-30

[सं० के.प्र.वि./13 : 2]

पी. दक्षिणामूर्ति, अपर महानिदेशक

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 3rd February, 2003

S.O. 519.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 415 : 2002—Shuttlecocks—Specifications (Third Revision)	IS 415 : 1978	2002-08-31
2.	IS 715 : 2002—coated abrasives— Specifications (Fourth Revision)	IS 715 (Pt 1) : 1976 IS 715 (Pt 2) : 1976	2002-07-31
3.	IS 1090 : 2002—Compressed hydrogen— specification (Third Revision)	IS 1090 : 1983	2002-09-30
4.	IS 1715 : 2002—Self-holding tapers— dimensions (Third Revision)	IS 1715 : 1986	2002-07-31
5.	IS 2266 : 2002—Steel wire ropes for general engineering purposes— Specification (Fourth Revision)	IS 2266 : 1989	2002-09-30
6.	IS 2361 : 2002—Bulldog grips— Specification (Third Revision)	IS 2361 : 1994	2002-08-31
7.	IS 2399 : 2002—Rolling bearings- vocabulary (Second Revision)	IS 2399 : 1988	2002-08-31

(1)	(2)	(3)	(4)
8.	IS 2840 : 2002—China clay for ceramic industry—Specification (Second Revision)	IS 2840 ;	2002-09-30
9.	IS 2857 : 2002—Earthenware crockeryware—Specification (Third Revision)	IS 2857 : 1995	2002-08-31
10.	IS 3008 : 2002—Brushes, shoe blacking—Specification (Third Revision)	IS 3008 : 1993	2002-08-31
11.	IS 3595 : 2002—Code practice for fire safety of industrial buildings : coal pulverizers and associated equipments (Second Revision)	IS 3595 : 1984	2002-08-31
12.	IS 3822 : 2002—Eye hooks for use with chains—Specification (Second Revision)	IS 3822 : 1982	2002-08-31
13.	IS 4333 (Pt 2) : 2002—Method of analysis for foodgrains Part 2 : Determination of moisture content (First Revision)	IS 4333 (Pt 2) : 1967	2002-10-31
14.	IS 4333 (Pt 3) : 2002—Method of analysis for foodgrains Part 3 : Determination of hectolitre weight (First Revision)	IS 4333 (Pt 3) : 1967	2002-10-31
15.	IS 4333 (Pt 4) : 2002—Method of analysis for foodgrains Part 4 : Determination of the mass of 1000 grains (First Revision)	IS 4333 (Pt 4) : 1968	2002-09-30
16.	IS 4473 : 2002—Domestic gas ovens for use with liquefied petroleum gases—Specification (First Revision)	IS 4473 : 1967	2002-08-31
17.	IS 4888 (Pt 1) : 2002—Textile machinery and accessories-cones for cross winding Part 1 : Dimensions tolerances and designation of cones with half angle 3 30' (Third Revision)	IS 4888 (Pt 1) : 1982	2002-09-30
18.	IS 4888 (Pt 2) : 2002—Textile machinery and accessories-cones for cross winding Part 2 : Dimensions tolerances and designation of cones with half angle 4 20' (Third Revision)	IS 4888 (Pt 2) : 1982	2002-09-30

(1)	(2)	(3)	(4)
19.	IS 4888 (Pt 3) : 2002—Textile machinery and accessories—cones for cross winding Part 3 : Dimensions tolerances and designations of cones with half angle 5° 57' (Third Revision)	IS 4888 (Pt 3) : 1982	2002-09-30
20.	IS 5267 : 2002—Vocabulary of gear terms—definitions related to worm gear geometry (First Revision)	IS 5267 : 1969	2002-10-31
21.	IS 5887 (Pt 8/Sec 2) : 2001—Method of detection of bacteria responsible for food poisoning Part 8 : Horizontal method for enumeration of coagulase—positive staphylococci (staphylococcus aureus and other species) Section 2 : Technique using rabbit plasma fibrinogen agar medium	—	2001-08-31
22.	IS 6613 : 2002—Natural spirit for alcoholic drinks—specification (First Revision)	IS 6613 : 1972	2002-08-31
23.	IS 6869 (Pt 6) : 2002—Playground equipment for park—Specification Part 6 : Swings	—	2002-07-31
24.	IS 6978 : 2002—Chees equipment—specification (First Revision)	IS 6978 : 1973	2002-07-31
25.	IS 6988 : 2002—Fine (Bone) China crockeryware—specification (Second Revision)	IS 6988 : 1994	2002-08-31
26.	IS 7028 (Pt 12) : 2002—Performance tests for complete, filled transport packages Part 12 : Vibration test using a sinusoidal variable frequency (First Revision)	IS 7028 (Pt 12) : 1987	2002-08-31
27.	IS 7513 (Pt 2) : 2002—Fluid power systems and components—graphic symbols and circuit diagrams Part 2 : Circuit diagrams	—	2002-07-31
28.	IS 7670 : 2002—Aluminium alloy forgings stock and forgings (for parts operated at elevated temperatures) for aerospace applications (alloy 22588)—specification (First Revision)	IS 7670 : 1975	2002-08-31
29.	IS 8711 : 2002—Gap frame open front mechanical presses—capacity ratings and dimensions (First Revision)	IS 8711 : 1978	2002-09-30

(1)	(2)	(3)	(4)
30.	IS 8749 : 2002—Biogas stove— specification (Second Revision)	IS 8749 : 1988	2002-08-31
31.	IS 8788 : 2002—Dimensions for metric external taper and internal parallel screw threads (Second Revision)	IS 8788 : 1993	2002-09-30
32.	IS 8805 : 2002—General requirements for ferrule type couplings used in oil hydraulic systems (First Revision)	IS 8805 : 1978	2002-09-30
33.	IS/ISO 9001 : 2002—Quality management systems—requirements (Second Revision)	IS/ISO 9001 : 2000	2002-09-30
34.	IS 9018 (Pt 1) : 2002—Quartz crystal controlled oscillators of assessed quality Part 1 : Generic specification (First Revision)	IS 9018 : 1978	2002-07-31
35.	IS 9020 : 2002 — Power threshers — safety requirements (First Revision)	IS 9020 : 1979	2002-09-30
36.	IS 9282 : 2002 — Wire ropes and strands for suspension bridges — specification (First Revision)	IS 9282 : 1979	2002-08-31
37.	IS 9404 : 2002 — Identification of pipeline used in thermal power plants— colour code (First Revision)	IS 9404 : 1979	2002-08-31
38.	IS 9439 : 2002 — Glossary of terms used in water-well drilling technology (First Revision)	IS 9439 : 1980	2002-08-31
39.	IS 9813 : 2002 — Tractor-operated blade terracter — specification (First Revision)	IS 9813 : 1981 and IS 7353 : 1974	2002-08-31
40.	IS 9832 : 2002 — Cosmetic pencils — specification (First Revision)	IS 9832 : 1981	2002-08-31

(1)	(2)	(3)	(4)
41.	IS 9972 : 2002— Specification for automatic sprinkler heads for fire protection service (First Revision)	IS 9972 : 1981	2002-09-30
42.	IS 101387 : 2002— Hydraulic fluid power— four-port directional control valves — mounting surfaces (First Revision)	IS 10187 : 1982	2002-10-31
43.	IS 10278 : 2002— Automotive vehicles — maximum speed of two wheelers—method of measurement (Second Revision)	IS 10278 : 1993	2002-09-30
44.	IS 10555 : 2002— Exfoliated vermiculite specification (First Revision)	IS 10555 : 1983	2002-08-31
45.	IS 11337 : 2002— Purchase specification for hydraulic cylinders (First Revision)	IS 11337 : 1985	2002-08-31
46.	IS 11475 : 2002— Stoneware crockeryware— specification (Second Revision)	IS 11475 : 1994	2002-08-31
47.	IS 11601 : 2002 — Methods of safety evaluation of synthetic detergents— tests for skin irritation and sensitization potential of synthetic detergents (First Revision)	IS 11601(Pt. 3) : 1986 IS 11601(Pt. 2) : 1992	2002-09-30
48.	IS 12734 : 2002— Textiles—polypro- pylene twine — specification (First Revision)	IS 12734 : 1989	2002-09-30
49.	IS 13010 : 2002— ac Watthour meters, class 0.5, 1 and 2— specification (First Revision)	IS 13030 : 1990	2002-09-30

(1)	(2)	(3)	(4)
50.	IS 13420 (Pt. 1) : 2002— Cabled distribution systems for television and sound signals Part 1: Methods of measurement and system performance (Second Revision)	IS 13420 (Pt.1) : 1994	2002-09-30
51.	IS 13988 : 2002— Automotive vehicles— starting gradeability — method of measurement (First Revision)	IS 13988 : 1994	2002-09-30
52.	IS 14202 (Pt. 3) : 2002— Information technology — identification cards— integrated circuit(s) cards with contacts Part 3: Electronic signals and transmission protocols	—	2002-09-30
53.	IS 14357 : 2002— Information technology — Code of practice for information security management (First Revision)	IS 14357 : 1996	2002-08-31
54.	IS 14700 (Pt. 6/Sec. 3) : 2002— Electromagnetic compatibility (EMC) Part 6 : Generic standards Section 3 : Emission standard for residential, commercial and light— industrial environments	—	2002-09-30
55.	IS 14988 (Pt. 2) : 2002— Microbiology of food and animal feeding stuffs—horizontal method for the detection and enumeration of <i>Listeria monocytogenes</i> Part 2 : Enumeration method	—	2002-08-31
56.	IS 15072 : 2002— Sodium alpha olefin sulphonate for cosmetic, detergent and other industrial use— specification	—	2002-06-30

(1)	(2)	(3)	(4)
57.	IS 15139 : 2002— Automotive vehicles- safety belt anchorages- specification	IS 14357 : 1996	2002-07-31
58.	IS 15143 : 2002— Conveyor belting of elastomeric and steel cord construction for underground mines and such other hazardous applications-specification	—	2002-09-30
59.	IS 15144 : 2002— Indexable hardmetal (carbide) inserts with rounded corners with partly cylindrical fixing hole-dimensions of inserts with 7 normal clearance for light alloy and plastic components turning	—	2002-08-31
60.	IS 15145 : 2002— Round kelly for direct rotary water well drilling rig— requirements	—	2002-08-31
61.	IS 15148 : 2002— Belt drives-V-ribbed belts, joined V-belts and V-belts including wide section belts and hexagonal belts— electrical conductivity of antistatic belts : characteristica and methods of test	—	2002-07-31
62.	IS 15152 : 2002— Cold wax hair remover— specification	—	2002-08-31
63.	IS 15153 : 2002— Face pack-specification	—	2002-08-31
64.	IS 15172 : 2002— Methods for testing tar and bituminous materials— determination of curing index for cutback bitumens	—	2002-08-31
65.	IS 15174 : 2002— Methods for testing tar and bituminous materials— determination of breaking point for anionic bitumen emulsion	—	2002-08-31

(1)	(2)	(3)	(4)
66.	IS 15175 : 2002— Surface covered cultivation structure-establishment and operation of mist chamber-guidelines	IS 14357 : 1996	2002-08-31
67.	IS 15176 : 2002— Food hygiene-micro biological risk assessment- principles and guidelines for the conduct	—	2002-08-31
68.	IS 15177 : 2002— Surface covered cultivation- plastics mulching-code of practice	—	2002-08-31
69.	IS 15180 : 2002— Guidelines for use In prediction of subsidence and associated parameters in coal mines having nearly horizontal single seam workings	—	2002-09-30
70.	IS 15181 (Pt. 2) : 2002— Hydraulic fluid power - measurement techniques Part 2: Measurement of average steady state pressure in a closed conduit	—	2002-07-31
71.	IS 15182:2002— Propiconazole E.C.- specification	—	2002-09-30
72.	IS 15183 (Pt I) : 2002— Guidelines for maintenance management of buildings Part 1: General	—	2002-08-31
73.	IS 15183 (Pt 2) : 2002— Guidelines for maintenance management of buildings Part 2: Finance	—	2002-08-31
74.	IS 15184 : 2002— Bicycles - Steel balls - specification	—	2002-08-31
75.	IS 15189 : 2002— Information technology - data interchange on read-only 120 mm optical data disks (cd-rom)	—	2002-08-31
76.	IS 15190 (Pt. 1) : 2002— Acetylene pipelines - code of practice Part 1: For pressures up to 155 kPa (g)	—	2002-08-31

(1)	(2)	(3)	(4)
77.	IS 15198 : 2002— Glossary of terms in human resource development	IS 14357 : 1996	2002-08-33
78.	IS 15201 : 2002— Hydrogen - code of safety	—	2002-09-30
79.	IS 15202 (Pt. 1) : 2002— Guidelines for implementation of statistical process Control (SPC) Part 1: Elements of SPC	—	2002-08-31
80.	IS 15203 : 2002— Textiles— method of test for determination of colour fastness of textile materials to artificial light at high temperatures-xenon arc fading lamp test	—	2002-09-30
81.	IS 15204 : 2002— Microwave ferrite components - measuring methods for major properties	—	2002-09-30
82.	IS 15206 : 2002— Work-place air —determina- tion of mass concentration of carbon monoxide-method using detector tubes for short term sampling with direct indication	—	2002-07-31
83.	IS 15207 : 2002— Workplace air-determina- tion of vaporous chlorinated hydrocarbons-charcol tube/ solvent desorption/gas chromatographic method	—	2002-08-33
84.	IS 15208 : 2002— Undirectional non-woven semi-cured glass fibre tape - specification	—	2002-09-30
85.	IS 15216 : 2002— Balloons - meteorological	—	2002-09-30
86.	IS 15219 : 2002— Aluminium phosphide powder formulation	—	2002-09-30
87.	IS 15233 : 2002— Glufosinate ammonium SL- specification	—	2002-09-30
88.	IS 15246 : 2002— Machine tools — front faces of spindle holders for machining centres - functional dimensions	—	2002-09-30

(1)	(2)	(3)	(4)
89.	IS 15254 : 2002— Securities —numbering of certificates	IS 14357 : 1996	2002-10-31
90.	IS 15257—2002 Geometrical orientation and directions of movements	—	2002-09-30

[No. CMD/13:2]

P. DAKSHINAMURTY, Addl. Director General

नई दिल्ली, 3 फरवरी, 2003

का.आ. 520.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आईएस 73 : 1992	संशोधन सं. 3 अक्टूबर 2002	2002 10 31
2.	आईएस 227 : 1992	संशोधन सं. 5 नवम्बर 2002	2002 11 30
3.	आईएस 280 : 1978	संशोधन सं. 3 नवम्बर 2002	2002 11 30
4.	आईएस 371 : 1999	संशोधन सं. 2 नवम्बर 2002	2002 11 30
5.	आईएस 513 : 1994	संशोधन सं. 2 नवम्बर 2002	2002 11 30
6.	आईएस 902 : 1992	संशोधन सं. 1 अगस्त 2002	2002 08 31
7.	आईएस 1029 : 1985	संशोधन सं. 3 नवम्बर 2002	2002 11 30
8.	आईएस 1079 : 1994	संशोधन सं. 4 नवम्बर 2002	2002 11 30
9.	आईएस 1148 : 1982	संशोधन सं. 2 नवम्बर 2002	2002 11 30
10.	आईएस 1149 : 1992	संशोधन सं. 1 नवम्बर 2002	2002 11 30
11.	आईएस 1328 : 1996	संशोधन सं. 2 अगस्त 2002	2002 08 31
12.	आईएस 1350 (भाग 4/खंड 2) : 1975	संशोधन सं. 2 सितम्बर 2002	2002 09 30
13.	आईएस 1355 : 1984	संशोधन सं. 1 नवम्बर 2002	2002 11 30
14.	आईएस 1659 : 1990	संशोधन सं. 6 अगस्त 2002	2002 08 31
15.	आईएस 1734 (भाग 4) : 1983	संशोधन सं. 2 नवम्बर 2002	2002 11 30
16.	आईएस 1943 : 1995	संशोधन सं. 3 नवम्बर 2002	2002 11 30
17.	आईएस 1977 : 1996	संशोधन सं. 2 नवम्बर 2002	2002 11 30
18.	आईएस 1990 : 1973	संशोधन सं. 2 नवम्बर 2002	2002 11 30
19.	आईएस 2002 : 1992	संशोधन सं. 4 नवम्बर 2002	2002 11 30
20.	आईएस 2005 : 1988	संशोधन सं. 2 नवम्बर 2002	2002 11 30
21.	आईएस 2006 : 1988	संशोधन सं. 2 नवम्बर 2002	2002 11 30
22.	आईएस 2062 : 1999	संशोधन सं. 2 नवम्बर 2002	2002 11 30

(1)	(2)	(3)	(4)
23.	आईएस 2830 : 1992	संशोधन सं. 1 नवम्बर 2002	2002 11 30
24.	आईएस 2831 : 2001	संशोधन सं. 1 नवम्बर 2002	2002 11 30
25.	आईएस 2879 : 1998	संशोधन सं. 1 नवम्बर 2002	2002 11 30
26.	आईएस 2997 : 1964	संशोधन सं. 8 अक्टूबर 2002	2002 11 30
27.	आईएस 3502 : 1994	संशोधन सं. 1 नवम्बर 2002	2002 11 30
28.	आईएस 4155 : 1966	संशोधन सं. 1 सितम्बर 2002	2002 09 30
29.	आईएस 4947 : 1985	संशोधन सं. 7 सितम्बर 2002	2002 09 30
30.	आईएस 5290 : 1993	संशोधन सं. 4 अक्टूबर 2002	2002 10 31
31.	आईएस 5793 : 1970	संशोधन सं. 1 अगस्त 2002	2002 08 31
32.	आईएस 5798 : 1970	संशोधन सं. 1 अगस्त 2002	2002 08 31
33.	आईएस 5935 : 1992	संशोधन सं. 1 अक्टूबर 2002	2002 10 31
34.	आईएस 7867 : 1975	संशोधन सं. 1 दिसम्बर 2002	2002 12 31
35.	आईएस 8233 : 1967	संशोधन सं. 1 अगस्त 2002	2002 08 31
36.	आईएस 8336 : 1977	संशोधन सं. 4 अगस्त 2002	2002 08 31
37.	आईएस 8928 : 1988	संशोधन सं. 1 अगस्त 2002	2002 08 31
38.	आईएस 9085 : 1979	संशोधन सं. 1 अगस्त 2002	2002 08 31
39.	आईएस 10204 : 2001	संशोधन सं. 1 अगस्त 2002	2002 08 31
40.	आईएस 10511 : 1983	संशोधन सं. 2 नवम्बर 2002	2002 11 30
41.	आईएस 10582 : 1983	संशोधन सं. 1 अगस्त 2002	2002 08 31
42.	आईएस 10658 : 1999	संशोधन सं. 2 सितम्बर 2002	2002 09 30
43.	आईएस 10805 : 1986	संशोधन सं. 3 नवम्बर 2002	2002 11 30
44.	आईएस 11037 : 1984	संशोधन सं. 3 अक्टूबर 2002	2002 10 31
45.	आईएस 11815 : 1986	संशोधन सं. 1 अगस्त 2002	2002 08 31
46.	आईएस 12120 : 1987	संशोधन सं. 2 अगस्त 2002	2002 08 31
47.	आईएस 12438 : 1988	संशोधन सं. 1 अगस्त 2002	2002 08 31
48.	आईएस 13385 : 1992	संशोधन सं. 2 सितम्बर 2002	2002 09 30
49.	आईएस 13386 : 1992	संशोधन सं. 2 सितम्बर 2002	2002 09 30
50.	आईएस 14163 : 1995	संशोधन सं. 1 नवम्बर 2002	2002 11 30
51.	आईएस 14220 : 1994	संशोधन सं. 5 नवम्बर 2002	2002 11 30
52.	आईएस 14665 (भाग 4/खंड 3) 2001	संशोधन सं. 1 नवम्बर 2002	2002 11 30
53.	आईएस 14746 : 1999	संशोधन सं. 1 नवम्बर 2002	2002 11 30
54.	आईएस 15001 : 2000	संशोधन सं. 1 नवम्बर 2002	2002 11 30

[सं० के.प्र.वि./13 : 5]

पी. दक्षिणामूर्ति, अपर महानिदेशक

New Delhi, the 3rd February, 2003

S.O. 520.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules 1987, the Bureau of Indian Standards hereby notified that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued.

SCHEDULE

Sl. No.	Year and Name of Indian Standards Amendments	No. of Amendment and Date	Date of Amendment
(1)	(2)	(3)	(4)
1.	IS 73 : 1992	Amendment No. 3 October 2002	2002 10 31
2.	IS 227 : 1992	Amendment No. 5 November 2002	2002 11 30
3.	IS 280 : 1978	Amendment No. 3 November 2002	2002 11 30
4.	IS 371 : 1999	Amendment No. 2 November 2002	2002 11 30
5.	IS 513 : 1994	Amendment No. 2 November 2002	2002 11 30
6.	IS 902 : 1992	Amendment No. 1 August 2002	2002 08 31
7.	IS 1029 : 1970	Amendment No. 3 November 2002	2002 11 30
8.	IS 1079 : 1994	Amendment No. 4 November 2002	2002 11 30
9.	IS 1148 : 1982	Amendment No. 2 November 2002	2002 11 30
10.	IS 1149 : 1982	Amendment No. 1 November 2002	2002 11 30
11.	IS 1328 : 1996	Amendment No. 2 August 2002	2002 08 31
12.	IS 1350 (Pt 4/Sec 2) : 1975	Amendment No. 2 September 2002	2002 09 30
13.	IS 1355 : 1984	Amendment No. 1 November 2002	2002 11 30
14.	IS 1659 : 1990	Amendment No. 6 August 2002	2002 08 31
15.	IS 1734 (Pt 4) : 1983	Amendment No. 2 November 2002	2002 11 30
16.	IS 1943 : 1995	Amendment No. 3 November 2002	2002 11 30
17.	IS 1977 : 1996	Amendment No. 2 November 2002	2002 11 30
18.	IS 1990 : 1973	Amendment No. 2 November 2002	2002 11 30
19.	IS 2002 : 1992	Amendment No. 4 November 2002	2002 11 30
20.	IS 2005 : 1988	Amendment No. 2 November 2002	2002 11 30
21.	IS 2006 : 1988	Amendment No. 2 November 2002	2002 11 30
22.	IS 2062 : 1999	Amendment No. 2 November 2002	2002 11 30
23.	IS 2830 : 1992	Amendment No. 1 November 2002	2002 11 30
24.	IS 2831 : 2001	Amendment No. 1 November 2002	2002 11 30
25.	IS 2879 : 1998	Amendment No. 1 November 2002	2002 11 30
26.	IS 2997 : 1964	Amendment No. 8 October 2002	2002 10 30
27.	IS 3502 : 1994	Amendment No. 1 November 2002	2002 11 30
28.	IS 4155 : 1966	Amendment No. 1 September 2002	2002 09 30
29.	IS 4947 : 1985	Amendment No. 7 September 2002	2002 09 30
30.	IS 5290 : 1993	Amendment No. 4 October 2002	2002 10 30
31.	IS 5793 : 1970	Amendment No. 1 August 2002	2002 08 31
32.	IS 5798 : 1970	Amendment No. 1 August 2002	2002 08 31
33.	IS 5935 : 1992	Amendment No. 1 October 2002	2002 10 31
34.	IS 7867 : 1975	Amendment No. 1 December 2002	2002 12 31
35.	IS 8233 : 1967	Amendment No. 1 August 2002	2002 08 31
36.	IS 8336 : 1977	Amendment No. 4 August 2002	2002 08 31
37.	IS 8928 : 1988	Amendment No. 1 August 2002	2002 08 31
38.	IS 9085 : 1979	Amendment No. 1 August 2002	2002 08 31
39.	IS 10204 : 2001	Amendment No. 1 August 2002	2002 08 31

(1)	(2)	(3)	(4)
40.	IS 10511 : 1983	Amendment No. 2 November 2002	2002 11 30
41.	IS 10582 : 1983	Amendment No. 1 August 2002	2002 08 31
42.	IS 10658 : 1999	Amendment No. 2 September 2002	2002 09 30
43.	IS 10805 : 1986	Amendment No. 3 November 2002	2002 11 30
44.	IS 11037 : 1984	Amendment No. 3 October 2002	2002 10 31
45.	IS 11815 : 1986	Amendment No. 1 August 2002	2002 08 31
46.	IS 12120 : 1987	Amendment No. 2 August 2002	2002 08 31
47.	IS 12438 : 1988	Amendment No. 1 August 2002	2002 08 31
48.	IS 13385 : 1992	Amendment No. 2 September 2002	2002 09 30
49.	IS 13386 : 1992	Amendment No. 2 September 2002	2002 09 30
50.	IS 14163 : 1995	Amendment No. 1 November 2002	2002 11 30
51.	IS 14220 : 1994	Amendment No. 5 November 2002	2002 11 30
52.	IS 14665 (Pt 4/Sec 3) : 2001	Amendment No. 1 November 2002	2002 11 30
53.	IS 14746 : 1999	Amendment No. 1 November 2002	2002 11 30
54.	IS 15001 : 2000	Amendment No. 1 November 2002	2002 11 30

[No. CMD/13 : 5]

P. DAKSHINAMURTHY, Addl. Director General

पोत परिवहन मंत्रालय

नई दिल्ली, 28 जनवरी, 2003

का.आ. 521.— भारत सरकार, निम्नलिखित कार्यालयों, जहां 80% से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है और जो इस मंत्रालय के प्रशासनिक नियंत्रण में हैं, को राजभाषा (संघ के सरकारी उद्देश्य के लिए प्रयोग) नियमावली, 1976 के नियम 10 के उप-नियम (4) के तहत अधिसूचित करती है :—

1. कोचीन शिपयार्ड, लिमिटेड,
कोचीन-682015,
2. समुद्री इंजीनियरिंग एवं अनुसंधान संस्थान,
हे बन्दर रोड,
मुम्बई-400033

[फा. सं. ई-11011/1/2000-हिन्दी]

एम. रामचन्द्रन, संयुक्त सचिव

MINISTRY OF SHIPPING

New Delhi, the 28th January, 2003

S.O. 521.—In pursuance of sub-rule (4) of rule 10 of the Official Language (use for the official purpose of the Union) Rule, 1976, the Government of India hereby notifies the following offices under the administrative control of the Ministry of Shipping where more than 80% of staff have acquired working knowledge in Hindi :—

1. Cochin Shipyard Ltd.,
Cochin-682015
2. Marine Engineering and Research Institute,
Hay Bunder Road,
Mumbai-400033

[F. No. E-11011/1/2000-Hindi]

M. RAMACHANDRAN, Jt. Secy.

पर्यावरण एवं वन मंत्रालय

नई दिल्ली, 22 जनवरी, 2003

का.आ. 522.—राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में केन्द्रीय सरकार पर्यावरण एवं वन मंत्रालय के अधीन उत्तरीय आंचलिक कार्यालय, 117/51, क्यू ब्लॉक, शारदा नगर, कानपुर-206025, उत्तर प्रदेश जिसके 80 प्रतिशत कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं. ई-11011/2/03-राज.भा. (का.)]

बलदेव राज, निदेशक (रा. भा.)

MINISTRY OF ENVIRONMENT AND FORESTS

New Delhi, the 22nd January, 2003

S.O. 522.—In pursuance of sub-rule (4) of rule 10 of the Official Language (use for the official purpose of the Union) Rule, 1976, the Central Government hereby notifies the office of the Northern Regional Office, 117/51, Q Block, Sharda Nagar, Kanpur-206025, Uttar Pradesh under the administrative control of the Ministry of Environment and Forests, the 80% staff whereof have acquired a working knowledge of Hindi.

[No. E-11011/2/03-OL (I)]

BALDEV RAJ, Director (O.L.)

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 30 जनवरी, 2003

का.आ. 523.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में आकाशवाणी महानिदेशालय (सूचना और प्रसारण मंत्रालय) के निम्नलिखित अधीनस्थ कार्यालयों को जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

1. आकाशवाणी, डाल्टनगंज
2. आकाशवाणी, बालाघाट
3. आकाशवाणी, कसौली
4. सिविल निर्माण स्कंध, आकाशवाणी, जयपुर।

[सं. ई-11017/4/2002-हिन्दी]

एस. एस. कटारिया, निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 30th January, 2003

S.O. 523.—In pursuance of sub-rule (4) of rule 10 of the Official Language (use for the official purpose of the Union) Rules, 1976, the Central Government hereby notifies the following Subordinate Offices of the DG, AIR (Ministry of Information and Broadcasting), the staff whereof more than 80% have acquired the working knowledge of Hindi :—

1. All India Radio, Daltonganj.
2. All India Radio, Balaghat
3. All India Radio, Kasauli
4. Civil Construction Wing, AIR, Jaipur.

[No. E-11017/4/2002-Hindi]

S. S. KATARIA, Director (O.L.)

कोयला और खान मंत्रालय (कोयला विभाग)

नई दिल्ली, 5 फरवरी, 2003

का0आ0 524 केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित परिक्षेत्र की भूमि से कोयला अभिप्राप्त किए जाने की संभावना है :

अतः, अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है ;

इस अधिसूचना के अंतर्गत आने वाले क्षेत्र के रेखांक संख्यांक डीजी/0865538 तारीख 27 जून, 2002 का निरीक्षण मुख्य महाप्रबंधक (खोज प्रभाग) केन्द्रीय खान योजना और डिजाइन संस्थान गोंडवाना प्लेस , कांके रोड, रांची के कार्यालय में या कलक्टर नागपुर (महाराष्ट्र) के कार्यालय में या नियंत्रक, 1, कौंसिल हाऊस स्ट्रीट कोलकाता के कार्यालय में किया जा सकता है ;

इस अधिसूचना के अंतर्गत आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर मुख्य महाप्रबंधक (खोज प्रभाग) केन्द्रीय खान योजना और डिजाइन संस्थान, गोंडवाना प्लेस, कांके रोड, रांची को भेजेंगे ।

अनुसूची

“टोंडा खैरी और खंडाला और बोखारा के बीच क्षेत्र”, काम्पटी कोलफील्ड, जिला--नागपुर,
महाराष्ट्र ।

रेखांक सं.

डीजी/086538

तारीख 27.06.2002

क्र.सं.	ग्राम का नाम	पटवारी सर्कल सं०	तहसील	जिला	क्षेत्र हेक्टेयर में	टिप्पणी
1.	पारदी	2	नागपुर	नागपुर	401.448	सम्पूर्ण
2.	वाल्मी	2	नागपुर	नागपुर	60.220	भाग
3.	खंडाला	3	नागपुर	नागपुर	301.086	भाग
4.	आस्थी	3	नागपुर	नागपुर	268.971	सम्पूर्ण
5.	बोरगांव	3	नागपुर	नागपुर	464.75	सम्पूर्ण
6.	महुर्जारी	4	नागपुर	नागपुर	754.724	भाग
7.	ब्राह्मणवारा	2	नागपुर	नागपुर	172.623	भाग
8.	बैल्वाबरा	2	नागपुर	नागपुर	20.072	भाग
9.	भारतवारा	12	नागपुर	नागपुर	361.304	भाग
10.	चाकीखापा	12	नागपुर	नागपुर	264.956	भाग
11.	गोधनी	12	नागपुर	नागपुर	64.233	भाग
12.	लोनारा	12-क	नागपुर	नागपुर	48.173	भाग
13.	येरला	3	नागपुर	नागपुर	184.666	भाग
14.	गोधनी फेतरी	4	नागपुर	नागपुर	108.391	भाग
15.	पितेसुर	12	नागपुर	नागपुर	160.580	भाग
	योग				3636.197	

सीमा वर्णन :

क-ख-ग-घ : रेखा कमलेश्वर और नागपुर तहसील की सम्मिलित सीमा पर बिन्दु 'क' से आरंभ होती है और वाल्मी खंडाला ब्राह्मणवारा, बैलवाड़ा, भारतवाड़ा ग्रामों से होकर जाती है और बिन्दु 'घ' (चाकीखापा, गुमथाला, लोनारा ग्राम सीमा के त्रिसंधि) पर मिलती है।

घ-ङ-च-छ-ज : रेखा चाकीखापा और गोधनी ग्राम से होकर जाती है दक्षिण की ओर रेलवे लाइन पार करती है और पितेसुर के बिन्दु ज पर मिलती है।

ज-झ : रेखा पितेसुर महुर्जारी, गोधनी फेतरी ग्राम से होकर जाती है और नागपुर-कमलेश्वर सड़क पर मिलती है।

झ-ञ : रेखा येरला ग्राम से होते हुए नागपुर-कमलेश्वर सड़क के साथ-साथ जाती है और नागपुर और कमलेश्वर की तहसील सीमा के बिन्दु ज पर मिलती है।

ञ-क : रेखा कमलेश्वर और नागपुर की सम्मिलित तहसील सीमा से होकर जाती है और ग्राम वाल्मी के बिन्दु क पर मिलती है।

[फा. सं.-43015/9/2002-पीआरआईडब्ल्यू]
संजय बहादुर, उप सचिव

Ministry of Coal and Mines
((Department of Coal))

New Delhi, the 5th February, 2003

S.O. 524—Where as it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the schedule here to annexed ;

Now therefore in exercise of the powers conferred by subsection (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal there in;

The Plan no DG/086538 dated 27th June, 2002 of the area covered by this notification can be inspected at the office of Chief General Manager (Exploration Division) Central Mine Planning and Design Institute , Gondwana Place , Kanke Road, Ranchi or at the office of the Collector, Nagpur (Maharashtra) or in the office of the Controller , 1, Council House Street , Kolkata;

All persons interested in the lands covered by this notification shall deliver all maps , charts and other documents referred to in sub section (7) of section 13 of the said Act to the Chief General Manager (Exploration Division) , Central Mine Planning & Design Institute, Gondwana Place , Kanke Road, Ranchi within ninety days from the date of publication of this notification in the Official Gazette.

Schedule
“Area between Tonda Khairi and Khandala and Bokhara”,
Kamptee coalfield, Dist – Nagpur, Maharashtra.

Plan no DG/086538 dated 27.06.2002

Sl No	Name of the village	Patwari circle number	Tahsil	District	Area in hectares	Remarks
1	Pardi	2	Nagpur	Nagpur	401.448	Full
2	Valni	2	Do	Do	60.220	Part
3	Khandala	3	Do	Do	301.086	Part
4	Asthi	3	Do	Do	268.971	Full
5	Borgaon	3	Do	Do	464.75	Full
6	Mahurzari	4	Do	Do	754.724	Part
7	Brahmanwara	2	Do	Do	172.623	Part
8	Bailwawra	2	Do	Do	20.072	Part
9	Bharatwara	12	Do	Do	361.304	Part
10	Chakikhapa	12	Do	Do	264.956	Part
11	Godhani	12	Do	Do	64.233	Part
12	Lonara	12-A	Do	Do	48.173	Part
13	Yerla	3	Do	Do	184.666	Part
14	Godhani Phetri	4	Do	Do	108.391	Part
15	Pitesur	12	Do	Do	160.580	Part
	Total				3636.197	

Boundary Description:

A-B-C-D : Line starts from point ‘A’ on the common boundary of Kamaleshwar and Nagpur Tahsil and passes through villages Valni, Khandala, Brahmanwara, Bailwara, Bharatwara and meet at point D (Junction of Chakikhapa, Gumthala, Lonara village boundary).

D-E-F-G-H : Line passes through Lonara, Chakikhapa and Godhani village, cross the railway line, towards south and meet at point H of Pitesur

H-I : Line passes through village Pitesur, Mahurzari Godhani Phetri and meet at Nagpur- Kalmeshwar road.

I-J : Line passes through Yerla village along Nagpur – Kalmeshwar road and meet Tahsil boundary of Nagpur and Kamaleshwar at point J.

J-A : Line passes through common Tahsil boundary of Kalmeshwar and Nagpur and meet point A at village Vani.

[No.-43015/9/2002-PRIV]
SANJAY BAHADUR, Dy. Secy.

नई दिल्ली, 5 फरवरी, 2003

का0आ0 525- केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की धारा 4 की उपधारा (1) के अधीन भारत सरकार के कोयला मंत्रालय की अधिसूचना का0आ0 376 तारीख 12 फरवरी, 2001 द्वारा, जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 24 फरवरी, 2001 में प्रकाशित की गई थी, उससे उपाबद्ध अनुसूची में और जो इससे संलग्न अनुसूची में भी विनिर्दिष्ट है, परिक्षेत्र की भूमि में जिसका माप 7992.60 एकड़ (लगभग) या 3234.561 हेक्टेयर (लगभग) है कोयले का पूर्वेक्षण करने के अपने आशय की सूचना दी थी;

और उक्त भूमि की बाबत उक्त अधिनियम की धारा 7 की उपधारा (1) के अधीन कोई सूचना नहीं दी गई है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तारीख 24 फरवरी, 2003 से प्रारंभ होने वाली एक वर्ष की और अवधि को ऐसी अवधि के रूप में विनिर्दिष्ट करती है जिसके भीतर केन्द्रीय सरकार उक्त भूमि या ऐसी भूमि में या उस पर के किसी अधिकार को अर्जित करने के अपने आशय की सूचना दे सकेगी।

अनुसूची

नैनी ब्लाक

तालचेर कोलफील्ड्स

जिला- अंगुल (उड़ीसा)

(रेखांक सं0 एमसीएल/एसएएमबी/सीजीएम(सी पी एण्ड पी) नैनी/00/21, तारीख 28 अप्रैल, 2000)

क्र.सं.	ग्राम	पुलिस थाना और सं.	तहसील/उप प्रभाग	जिला/ राज्य	क्षेत्र (एकड़ में)	टिप्पणियां
1.	संतराबंधा	चेन्दियापाड़ा/ 106	तालचेर	अंगुल/उड़ीसा	1837.65	संपूर्ण
2.	भालुखमन	चेन्दियापाड़ा/ 105	तालचेर	अंगुल/उड़ीसा	214.05	संपूर्ण
3.	खजुरीखाई	चेन्दियापाड़ा/ 107	तालचेर	अंगुल/उड़ीसा	519.00	संपूर्ण
4.	धौराखमन	चेन्दियापाड़ा/ 81	तालचेर	अंगुल/उड़ीसा	235.75	संपूर्ण
5.	कुडापासी	चेन्दियापाड़ा/ 103	तालचेर	अंगुल/उड़ीसा	311.74	संपूर्ण
6.	थालीपासी	चेन्दियापाड़ा/ 101	तालचेर	अंगुल/उड़ीसा	109.13	संपूर्ण
7.	बिम्बाधारपुर	चेन्दियापाड़ा/ 102	तालचेर	अंगुल/उड़ीसा	235.74	संपूर्ण
8.	कासीदिहा	चेन्दियापाड़ा/ 95	तालचेर	अंगुल/उड़ीसा	507.75	संपूर्ण
9.	करादाबहल	चेन्दियापाड़ा/ 100	तालचेर	अंगुल/उड़ीसा	550.43	संपूर्ण
10.	आरक्षित वन	चेन्दियापाड़ा/	तालचेर	अंगुल/उड़ीसा	2040.00	संपूर्ण
11.	ब्रह्मणबिल	चेन्दियापाड़ा/ 111	तालचेर	अंगुल/उड़ीसा	1430.60	संपूर्ण

योग 7992.60 (लगभग)

या

3234.561 हेक्टेर (लगभग)

सीमा वर्णन

- क-ख रेखा ग्राम कोंकुरपाल के दक्षिण पूर्वी कोने पर बिन्दु "क" से आरंभ होती है। यहां से रेखा दक्षिण और दक्षिण-पूर्व की ओर आरक्षित वन की पूर्वी सीमा के साथ-साथ और ग्राम संतरबंघा की उत्तरी और पूर्वी सीमा तथा ग्राम खंजूरीखाई की पूर्वी और दक्षिणी सीमा और ब्रह्मणबिल की पूर्वी सीमा के बिन्दु "ख" तक जाती है।
- ख-ग-घ रेखा ग्राम ब्रह्मणबिल से होकर पश्चिम की ओर बढ़ती है और ग्राम करादाबहल की पूर्वी सीमा को बिन्दु "ग" पर छूती है। यहां से रेखा ग्राम करादाबहल की पूर्वी सीमा के साथ-साथ दक्षिण दिशा में बिन्दु "घ" तक जाती है, जो ग्राम करादाबहल, ब्रह्मणबिल और बालीनाली का त्रिसंधि बिन्दु है।
- घ-ड. रेखा पश्चिम की ओर ग्राम करादाबहल और कासीडिहा की दक्षिणी सीमा के साथ-साथ बिन्दु "ड" तक जाती है, जो ग्राम कासीडिहा, कुंजबिहारीपुर और तेन्तुलोई गोपीनाथपुर का त्रिसंधि बिन्दु है।
- ड-च-क रेखा ग्राम कासीडिहा की पश्चिमी सीमा और चेन्दीयपाड़ा पी एफ की पूर्वी सीमा और ग्राम दहीबार की सीमा के साथ उत्तर की ओर बिन्दु "च" तक आगे बढ़ती है। यहां से रेखा आरक्षित वन से और ग्राम कांकुरपाल की दक्षिणी सीमा के साथ-साथ पूर्व की ओर बढ़ती है और प्रारंभिक बिन्दु "क" पर मिलती है।

[फा. सं.-43015/13/2000-पीआरआईडब्ल्यू]
संजय बहादुर, उप सचिव

New Delhi, the 5th February, 2003

S.O. 525 .— Whereas by the notification of the Government of India, Ministry of Coal, S.O. 376 dated the 12th February, 2001 under sub-section (1) of the section 4 of the Coal Bearing Areas (Acquisition & Development) Act, 1957 (20 of 1957) and published in Part-II, Section 3, Sub-section (ii), of the Gazette of India, dated, the 24th February, 2001, the Central Government gave notice of its intention to prospect for coal in lands measuring 7992.60 acres (approximately) or 3234.561 Hectares (approximately) in the locality specified in the Schedule appended thereto, as also in the Schedule hereto annexed;

And, whereas, in respect of the said lands, no notice under sub-section (1) of section 7 of the said Act has been given;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby specifies a further period of one year commencing from the 24th day of February, 2003 as the period within which the Central Government may give notice of its intension to acquire the said lands or any rights in or over such lands.

Schedule

Naini Block, Talcher Coalfields
District Angul, (ORISSA)

(Plan bearing NO.MCL/SAMB/CGM(CP&P)/Naini/00/21 dated 28.04.2000)

SL. No.	Village	Police Station & No	Tahsil / Sub Div.	District/ State	Area in Acres	Remarks
1	Santrabandha	Chhendipada/ 106	Angul	Angul / Orissa	1837.65	Full
2	Bhalukhaman	-do- / 105	-do-	-do-	214.05	Full
3	Khajurikhai	-do- / 107	-do-	-do-	519.76	Full
4	Dhaurakhaman	-do- / 81	-do-	-do-	235.75	Full
5	Kudapasi	-do- / 103	-do-	-do-	311.74	Full
6	Thalipasi	-do- / 101	-do-	-do-	109.13	Full
7.	Bimbadharpur	-do- / 102	-do-	-do-	235.74	Full
8.	Kasidiha	-do- / 95	-do-	-do-	507.75	Full
9.	Karadabahal	-do- / 100	-do-	-do-	550.43	Full
10.	Reserve Forest	-do- /	-do-	-do-	2040.00	Part
11.	Brahmanbil	-do- / 111	-do-	-do-	1430.60	Part
Total					7992.60 (approx.) or 3234.561 Hectares. (approx.)	

Boundary description

A-B :- The line starts from point 'A' at the south-eastern corner of village Kankurpal. From here the line moves towards south and south-east along the eastern boundary of Reserve Forest and northern & eastern boundary of village Santrabandha and eastern & southern boundary of village Khajurikhai and eastern boundary of village Brahmanbil upto point 'B'.

B-C-D The line proceeds towards west through village Brahmanbil and touches the eastern boundary of village Karadabahal at point 'C'. From here the line moves towards south along the eastern boundary of village Karadabahal upto point 'D' which is the trijunction point of villages Karadabahal, Brahmanbil & Balinali.

D-E The line proceeds towards west along the southern boundary of village Karadabahal and Kasidiha upto point 'E' which is the trijunction point of village Kasidiha, Kunjabiharipur & Tentuloi Gopinathpur.

E-F-A The line proceeds towards north along the western boundary of village Kasidiha and eastern boundary of Chhendipada PF and that of village Dahibar upto point 'F'. From here the line proceeds towards east through the Reserve Forest and along the southern boundary of village Kankurpal and meets the starting point 'A'.

[No.-43015/13/2000-PRIV]
SANJAY BAHADUR, Dy. Secy.

नई दिल्ली, 13 फरवरी, 2003

का० आ० 526 — केन्द्रीय सरकार ने, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (i) के अधीन, जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना सं. का. आ. 596 तारीख 1 जनवरी, 2001 द्वारा, जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 24 मार्च, 2001 में प्रकाशित की गई थी, उससे संलग्न अनुसूची में, विनिर्दिष्ट है, और जो इससे संलग्न अनुसूची में भी विनिर्दिष्ट है, परिक्षेत्र की भूमि में जिसका माप 9292.48 एकड़ (लगभग) या 3760.615 हेक्टेयर (लगभग) है, कोयले का पूर्वक्षण करने के लिए अपने आशय की सूचना दी थी;

और उक्त भूमि की बाबत उक्त अधिनियम की धारा 7 की उपधारा (i) के अधीन कोई सूचना नहीं दी गई है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तारीख 24 मार्च, 2003 से प्रारंभ होने वाली एक वर्ष की और अवधि को ऐसी अवधि के रूप में विनिर्दिष्ट करती है, जिसके भीतर केन्द्रीय सरकार, उक्त भूमि या ऐसी भूमि में या उन पर के किसी अधिकार का अर्जन करके के अपने आशय की सूचना दे सकेगी।

अनुसूची

बैतारानी ब्लाक तलचर कोलफील्ड
जिला अंगुल (उड़ीसा)

सर्वाधिकार

(रेखांक सं. एम सी.एल. /एस.ए.एम.बी./सी.जी.एम.(सी.पी.एंड पी) बैतारानी/00/22तारीख 28.4.2000)

क्र.सं.	ग्राम	थाना और सं.	तहसील उपखंड	जिला/राज्य	क्षेत्र एकड़ में	टिप्पणियां
1.	पोदपाडा	छेन्दीपाडा 42	अंगुल	अंगुल/उड़ीसा	511.00	भाग
2.	छेन्दीपाडा जंगल	छेन्दीपाडा 75	अंगुल	अंगुल/उड़ीसा	2206.36	भाग
3.	छेन्दीपाडा पी.एफ	छेन्दीपाडा 73	अंगुल	अंगुल/उड़ीसा	3993.60	भाग
4.	छेन्दीपाडा	छेन्दीपाडा 73	अंगुल	अंगुल/उड़ीसा	470.21	भाग
5.	मच्छकुटा	छेन्दीपाडा 77	अंगुल	अंगुल/उड़ीसा	256.00	भाग

6.	तेन्तुलोई गोपीनाथपुर	छेन्दीपाड़ा 94	अगुल	अगुल/उड़ीसा	516.02	सम्पूर्ण
7	तेन्तुलोई	छेन्दीपाड़ा 93	अगुल	अगुल/उड़ीसा	438.45	सम्पूर्ण
8.	पोदापाड़ा जंगल	छेन्दीपाड़ा 41	अगुल	अगुल/उड़ीसा	350.84	सम्पूर्ण
9.	मच्छकुटा	छेन्दीपाड़ा 40	अगुल	अगुल/उड़ीसा	550.00	सम्पूर्ण
कुल						9292.48 (लगभग) या 3760.615 हेक्टेयर (लगभग)

सीमा वर्णन

क-ख : रेखा 'नाले' के निकट छेन्दीपाड़ा पी.एफ में बिन्दु 'क' से आरंभ होती है। यहां से, यह छेन्दीपाड़ा पी.एफ से होकर दक्षिण की ओर 'नाले' की पश्चिमी सीमा और तेन्तुलोई गोपीनाथपुर ग्राम की पूर्वी सीमा के साथ बिन्दु 'ख' तक जाती है जो तेन्तुलोई गोपीनाथपुर कुंजाबी हरिपुर तथा कुरुरपेटा जंगल का त्रिसंगम है।

क-ग-घ-ङ : बिन्दु 'ख' से रेखा तेन्तुलोई गोपीनाथपुर और तेन्तुलोई ग्रामों की दक्षिणी सीमा के साथ - साथ पश्चिम की ओर बिन्दु 'ग' तक जाती है। यहां से रेखा बिन्दु 'घ' तक ग्राम तेन्तुलोई की पश्चिमी सीमा के साथ उत्तर की ओर जाती है और वहां से यह बिन्दु 'ङ' तक छेन्दीपाड़ा जंगल की दक्षिणी सीमा के साथ-साथ पश्चिम की ओर जाती है जो छेन्दीपाड़ा जंगल, तेन्तुलोई कोड़ासाही तथा हान्डीगोड़ा का त्रिसंगम है।

ङ-च-छ-ज : बिन्दु 'ङ' से, रेखा बिन्दु 'च' तक छेन्दीपाड़ा जंगल की पश्चिमी सीमा के साथ-साथ उत्तर की ओर जाती है। यहां से रेखा मच्छकुटा जंगल से होकर पश्चिम की ओर जाती है और बिन्दु 'क' पर इस जंगल की पश्चिमी सीमा को छूती है और बिन्दु 'छ' पर इस जंगल की पश्चिमी सीमा को छूती है। यहां से रेखा मच्छकुटा जंगल और ग्राम मच्छकुटा की पश्चिमी सीमा के साथ साथ बिन्दु 'छ' तक उत्तर की ओर जाती है।

छ-क : बिन्दु 'छ' से रेखा ग्राम पोदापाड़ा, छेन्दीपाड़ा जंगल, छेन्दीपाड़ा और छेन्दीपाड़ा पी एफ से होकर पूर्व की ओर जाती है और छेन्दीपाड़ा पी एफ में आरंभिक बिन्दु 'क' पर मिलती है।

[फा. सं.-43015/14/2000-पीआरआईडब्ल्यू]

संजय बहादुर, उप सचिव

New Delhi, the 13th February, 2003

S.O. 526. Whereas by the notification of the Government of India, in the Ministry of Coal, number S.O. 596 dated the 8th March, 2001 under sub-section (1) of the section 4 of the Coal Bearing Areas (Acquisition and Development) Act. 1957 (20 of 1957) and published in Part-II, Section 3, Sub-Section (ii), of the Gazette of India, dated the 24th March, 2001, the Central Government gave notice of its intention to prospect for coal in lands measuring 9292.48 Acres (approximately) or 3760.615 Hactares (approximately) in the locality specified in the Schedule appended thereto, as also in the Schedule hereto annexed,

And whereas in respect of the said lands, no notice under sub-section (1) of section 7 of the said Act has been given;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby specifies a further period of one year commencing from the 24th March, 2003 as the period within which the Central Government may give notice of its intension to acquire the said lands or any rights in or over such lands.

Schedule

Baitarani Block, Talcher Coalfield
District Angul (Orissa)

All rights

(Plan bearing NO.MCL/SAMB/CGM(CP&P)/Baitarani/00/22 dated 28.04.2000)

SL. No.	Village	Police Station & No	Tahsil / Sub Div.	District/ State	Area in Acres	Remarks
1	Podapada	Chhendipada/ 42	Angul	Angul / Orissa	511.00	Part
2	Chhendipada Jungle	Chhendipada/ 75	Angul	Angul / Orissa	2206.36	Part
3	Chhendipada P.F	Chhendipada /	Angul	Angul / Orissa	3993.60	Part
4	Chhendipada	Chhendipada / 73	Angul	Angul / Orissa	470.21	Part
5	Machhakuta Jungle	Chhendipada / 77	Angul	Angul / Orissa	256.00	Part
6	Tentuloi Gopinathpur	Chhendipada / 94	Angul	Angul / Orissa	516.02	Full
7	Tentuloi	Chhendipada / 93	Angul	Angul / Orissa	438.45	Full
8	Podapada Jungle	Chhendipada / 41	Angul	Angul / Orissa	350.84	Full
9	Machhakuta	Chhendipada / 40	Angul	Angul / Orissa	550.00	Full
Total					9292.48 (Approx.) or 3760.615 Hactares (Approx.)	

Boundary description

A-B:- The line starts from point 'A' in Chhendipada PF near the 'Nallah' From here, it proceeds towards south through the Chhendipada PF and along the western boundary of the 'Nallah' and eastern boundary of village Tentuloi Gopinathpur upto point 'B' which is the trijunction point of villages Tentuloi Gopinathpur, Kunjabiharipur and Kukurpeta Jungle.

B-C-D-E :- From point 'B' the line proceeds towards west along the southern boundary of villages Tentuloi Gopinathpur and Tentuloi up to point 'C'. From here the line proceeds towards north along the western boundary of village Tentuloi upto point 'D' and from there it proceeds towards west along the southern boundary of Chhendipada jungle upto point 'E' which is the trijunction point of villages Chhendipada jungle, Tentuloikodasahi and Handigoda.

E-F-G-H From point 'E' the line proceeds towards north along the western boundary of Chhendipada Jungle upto point 'F'. From here the line proceeds towards west through Machhakuta Jungle and touches the western boundary of this Jungle at point 'G'. From here the line proceeds towards north along the western boundary of Machhakuta Jungle and village Machhakuta upto point 'H'.

H-A From point 'H' the line proceeds towards east through village Podapada, Chhendipada Jungle, Chhendipada and Chhendipada PF and meets at the starting point 'A' in Chhendipada PF.

[No.-43015/14/2000-PRIV]
SANJAY BAHADUR, Dy. Secy.

नई दिल्ली, 13 फरवरी, 2003

का0आ0 527 - कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्याक का0आ0 2219 तारीख, 18 जून, 2002 के भारत के राजपत्र, भाग-II, खंड-3, उपखण्ड (ii), तारीख 6 जुलाई, 2002 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि में या उस पर के अधिकार (जिसे इसमें इसके पश्चात उक्त अधिकार कहा गया है) उक्त अधिनियम की धारा 10 की उपधारा (i) के अधीन, सभी विल्लगनों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे,

और केन्द्रीय सरकार का यह समाधान हो गया है कि साउथ ईस्टर्न कोलफील्ड्स लिमिटेड बिलासपुर (छत्तीसगढ़) सरकारी कम्पनी (जिसे इसमें इसके पश्चात् उक्त सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिये रजामंद है,

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा ॥ की उपधारा (I) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि इस प्रकार निहित उक्त भूमि और उक्त भूमि में या उस पर के अधिकार, तारीख 6 जुलाई, 2002 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की वजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कम्पनी में निहित हो जाएंगे, अर्थात्-

- (1) उक्त सरकारी कम्पनी, उक्त अधिनियम के उपबंधों के अधीन अवधारित प्रतिकर, ब्याज और वैसी ही मदों की बाबत किए गए सभी सदस्यों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी,
- (2) उक्त सरकारी कम्पनी द्वारा शर्त (I) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिये एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिये नियुक्त व्यक्तियों के संबंधों में उपगत सभी व्यय, उक्त कम्पनी वहन करेगी और इसी प्रकार, इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिये या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अपील आदि की बाबत उपगत, सभी व्यय भी, उक्त सरकारी कम्पनी वहन करेगी।
- (3) उक्त सरकारी कम्पनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्ही कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी,
- (4) उक्त सरकारी कम्पनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि अधिकार किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी, और
- (5) उक्त सरकारी कम्पनी, ऐसे निर्देशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिये दिए जाए या अधिरोपित की जाएं पालन करेगी।

[फा. सं.-43015/12/2000-पीआरआईडब्ल्यू]

संजय बहादुर, उप सचिव

S.O. 527. Whereas on the notification of the Government of India in the Ministry of Coal number S.O. 2219, dated the 18th June, 2002, in Part II, of section-3, of sub-section (ii), of the Gazette of India, dated 6th July, 2002 issued under sub-section(1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said rights) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said act;

And whereas the Central Government is satisfied that the South Eastern Coalfields Limited, Bilaspur (Chhattisgarh), a Government Company (hereinafter referred to as the Company), is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the said rights in or over the land, so vested, shall, with effect from the 6th July, 2002 instead of continuing to so vest in the Central government, vest in the said Company, subject to the following terms and conditions namely:-

- (1) the said Company shall reimburse the Central Government all payments made in respect of the compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) a tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the said Company under conditions(1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the said Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals etc., for or in connection with the rights in or over the said lands, so vesting shall also be borne by the said Company;
- (3) the said Company shall indemnify the Central Government or its official against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its official regarding the rights in or over the said lands so vesting;
- (4) the said Company shall have no power to transfer the said lands to any other person without a previous approval of the Central Government; and
- (5) the said Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[No.-43015/12/2000-PRIW]
SANJAY BAHADUR, Dy. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय,

नई दिल्ली, 10 फरवरी, 2003

का. आ. 528.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा(1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 2878 तारीख 5 सितम्बर, 2002 द्वारा गुजरात राज्य में गाँव बारेजा से गाँव नवागाम तक इंडियन आयल कारपोरेशन लिमिटेड द्वारा पेट्रोलियम उत्पादों के परिवहन के लिए पाइपलाइन बिछाई जाने के प्रयोजन के लिए उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 26.09.2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि के उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लिंगों से मुक्त, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तालुका : दशकरोई		जिला : अहमदाबाद		राज्य : गुजरात	
गोंव का नाम	सर्वेक्षण स. / खण्ड स.	उप-खण्ड सं	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5	6
बारिजा	1641		00	04	99
	1638		00	27	09
	1644		00	00	40
	1636		00	10	36
	1634		00	09	60
	1633		00	08	01
	1631		00	00	97
	1632		00	19	15
	1616		00	02	11
	1619		00	07	49
	1618		00	06	40
	1620		00	00	40
	1621		00	06	50
	1622		00	06	56
	1602		00	23	97
	1604		00	00	40
	1601		00	07	16
	1576		00	07	01
	1552		00	05	26
	1551		00	00	57
	1548		00	08	48
	1532		00	07	45
	1533		00	21	43
	1493		00	06	40
	1492		00	02	28
	1487		00	31	25
	1482		00	00	40
	1485		00	03	84
	1484		00	13	76
	1467		00	06	56
	1468		00	07	48
	1465		00	09	19
	1415		00	09	85
	1413		00	28	31
1419		00	01	36	
1412		00	08	27	

1	2	3	4	5	6
बारजा	1411		00	04	75
(क्रमश...)	1410		00	03	46
	1409		00	07	43
	1407		00	03	95
	1408		00	02	32
	1145		00	20	92
	1146		00	11	18
	1147		00	08	18
	1160		00	15	60
	1161		00	03	76
	1163		00	02	59
	1164		00	09	08
	1165		00	08	18
	1166		00	08	63
	1167		00	05	52
	1184		00	12	52
	1179		00	23	69
	1186		00	03	16
	1188		00	01	35
	1365		00	18	94
	1358		00	03	56
	1362		00	08	11
	1361		00	13	91
	1197		00	21	09

[फा. सं. आर-25011/23/2002-ओ.आर-1]

रेनुका कुमार, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 10th February, 2003

S.O. 528. — Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2878 dated the 5th September, 2002 issued under sub section (1) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (herein after referred to as the said Act) the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products from village Bareja to village Navagam in the State of Gujarat, a Pipeline should be laid by the Indian Oil Corporation Limited.

And, whereas, the copies of the said Gazette notification were made available to the public on 26.09.2002;

And whereas, the competent authority has under sub-section (1) of section 6 of the said Act has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification is hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of the publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

Schedule

Taluka - Dashkroi		District - Ahmedabad			State - Gujarat
Name of Village	Survey/Block No.	Sub-Division No.	Area		
			Hectare	Are	Centiare
1	2	3	4	5	6
Bareja	1641		00	04	99
	1638		00	27	09
	1644		00	00	40
	1636		00	10	36
	1634		00	09	60
	1633		00	08	01
	1631		00	00	97
	1632		00	19	15
	1616		00	02	11
	1619		00	07	49
	1618		00	06	40
	1620		00	00	40
	1621		00	06	50
	1622		00	06	56
	1602		00	23	97
	1604		00	00	40
	1601		00	07	16
	1576		00	07	01
	1552		00	05	26

1	2	3	4	5	6
Bareja	1551		00	00	57
(Cont....)	1548		00	08	48
	1532		00	07	45
	1533		00	21	43
	1493		00	06	40
	1492		00	02	28
	1487		00	31	25
	1482		00	00	40
	1485		00	03	84
	1484		00	13	76
	1467		00	06	56
	1468		00	07	48
	1465		00	09	19
	1415		00	09	85
	1413		00	28	31
	1419		00	01	36
	1412		00	08	27
	1411		00	04	75
	1410		00	03	46
	1409		00	07	43
	1407		00	03	95
	1408		00	02	32
	1145		00	20	92
	1146		00	11	18
	1147		00	06	18
	1160		00	15	60
	1161		00	03	76
	1163		00	02	59
	1164		00	09	08
	1165		00	08	18
	1166		00	08	63
	1167		00	05	52
	1184		00	12	52
	1179		00	23	69
	1186		00	03	16

1	2	3	4	5	6
Bareja	1188		00	01	35
(cont. -)	1365		00	18	94
	1358		00	03	56
	1362		00	08	11
	1361		00	13	91
	1197		00	21	09

[No. R-25011/23/2002-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 11 फरवरी, 2003

का. आ.524.-केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि उत्तरांचल राज्य में सहारनपुर से नजीबाबाद तक पेट्रोलियम उत्पादों के परिवहन के लिए इंडियन ऑयल कार्पोरेशन लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि इस अधिसूचना से संलग्न अनुसूची में वर्णित भूमि में उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि से हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन जारी भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री राकेश कुमार सिंह, सक्षम प्राधिकारी, इंडियन ऑयल कार्पोरेशन लिमिटेड, सहारनपुर-नजीबाबाद एक्स्टेंशन पाइपलाइन परियोजना, एस.डी.एम. लक्सर का कार्यालय, तहसील लक्सर, हरिद्वार (उत्तरांचल) को लिखित रूप में आक्षेप भेज सकेगा।

“अनुसूची”

तहसील : लक्सर		जिला : हरिद्वार		राज्य : उत्तरांचल	
गँव	खसरा संख्या	क्षेत्रफल			
		हेक्टेयर	आर	सेंटीआर	
1	2	3	4	5	
शेखपुरी खादर	13	0	50	07	
अकोढा मुकरमतपुर	269	0	04	87	
	295	0	01	51	
कुड़ी	295	0	10	50	
	296	0	01	00	

[फा. सं. आर-25011/2/2003-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 11th February, 2003

S.O. 529 – Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from the Saharanpur to Nazibabad in the State of Uttranchal; a pipeline should be laid by Indian Oil Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline it is necessary to acquire the right of user in the land described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to general public, object in writing to the laying of the pipeline under the land to Shri Rakesh Kumar Singh, Competent Authority, Indian Oil Corporation Limited, Saharanpur – Nazibabad Extension Pipeline Project, Office of the SDM Laksar, Tehsil-Laksar, Haridwar (Uttaranchal).

SCHEDULE

Tehsil : Laksar		District : Haridwar		State : Uttaranchal	
Village	Khasra No.	Area			
		Hectares	Ares	Centiares	
1	2	3	4	5	
Sheikhpuri Khadar	13	0	50	07	
Akodha Mukarmatpur	269	0	04	87	
	295	0	01	51	
Kudi	295	0	10	50	
	296	0	01	00	

[No. R-25011/2/2003-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 11 फरवरी, 2003

का.आ. 530..... केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि उत्तर प्रदेश राज्य में विद्यमान हजीरा-विजयपुर-जगदीशपुर पाइपलाइन पर एस.वी.-11 से सिटी गेट स्टेशन बरेली परियोजना तक प्राकृतिक गैस के परिवहन लिए गैल (इण्डिया) लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, सक्षम प्राधिकारी, गैल (इण्डिया) लिमिटेड, बी-35-36, सैक्टर-1, नोएडा - 201 301 को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गोंव	सर्वे न.	अर्जित क्षेत्रफल (हेक्टेयर में)
बरेली	बरेली	चौबारी	53	0.060
			55	0.020
			56	0.160
			71	0.010
			72	0.120
			73	0.060
			76	0.050
			77	0.030
			79	0.030
			कुल	0.540
		बुखारा	2	0.010
			3	0.020
			4	0.020
			6	0.040
			10	0.010
			11	0.010
			103	0.040
			137	0.020
			कुल	0.170
		महेशपुर ठाकुरान	725	0.070
			737	0.010
			768	0.010
			769	0.030
			770	0.020
			772	0.100
			775	0.010
			820	0.110
			821	0.110
			822	0.060
			825	0.010
			829	0.030
			830	0.040
			831	0.020
			कुल	0.830
		करेली	1051	0.020
			1052	0.100
			1053	0.070
			1055	0.070
			1059	0.080
			1060	0.080
			1061	0.060
			1073	0.060
			1074	0.060
			1075	0.060
			1076	0.040

जिला	तहसील	गोंव	सर्वे न.	अर्जित क्षेत्रफल (हेक्टेयर में)
बरेली	बरेली	करेली जारी ..	1078	0.050
			1080	0.010
			1084	0.010
			1119	0.030
			1121	0.300
			1122	0.340
			1124	0.220
			1137	0.010
			1143	0.040
			1144	0.030
			1145	0.020
			1147	0.030
			1148	0.030
			1149	0.020
			1151	0.020
			1153	0.040
			1158	0.130
			1159	0.140
			1160	0.090
			1161	0.040
			1162	0.080
			1163	0.010
			1249	0.100
			1251	0.020
			1254	0.010
			1255	0.100
			1256	0.010
			1257	0.040
			1258	0.040
			1260	0.010
			1261	0.030
			1263	0.030
			1265	0.020
			1266	0.010
			1270	0.030
			1271	0.020
			1272	0.040
			1273	0.010
			1301	0.010
			1319	0.010
			1348	0.010
			1349	0.070
			1350	0.130
			1351	0.030
			1352	0.020
			1353	0.030
			1354	0.100
			1361	0.010
			1338	0.010
			1400	0.010
			1401	0.010
			1402	0.020

जिला	तहसील	गाँव	सर्वे न.	अर्जित क्षेत्रफल (हेक्टेयर में)
बरेली	बरेली	करेली जारी ..	1403	0.030
			1406	0.010
			1407	0.010
			1409	0.010
			1410	0.030
			1411	0.080
			1412	0.010
			1417	0.010
			1418	0.090
			1419	0.030
			1421	0.010
			1422	0.090
			1423	0.010
			1424	0.010
			कुल	3.810
		कान्धरपुर	21	0.020
			22	0.030
			28	0.060
			29	0.010
			38	0.010
			39	0.020
			51	0.280
			53	0.010
			कुल	0.440
		अभयपुर कैम्प	160	0.010
			161	0.010
			162	0.030
			163	0.030
			164	0.040
			165	0.010
			180	0.010
			181	0.020
			182	0.010
			185	0.020
			कुल	0.190

[फा. सं. एल.-14014/52/02-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 11th February, 2003

S.O. 530.....--Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas from SV-11 on existing Hazira-Vijaipur-Jagdishpur pipeline to City Gate Station Bareilly project in the State of Uttar Pradesh, a pipeline should be laid by the GAIL (India) Limited;

And whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty-one-days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to the Competent Authority, GAIL (India) Limited, B-35-36, Sector-1, Noida - 201 301.

SCHEDULE

DISTRICT	TEHSIL	VILLAGE	SURVEY NO.	AREA ACQUIRED (IN HECT)
BAREILLY	BAREILLY	CHOUBARI	53	0.060
			55	0.020
			56	0.160
			71	0.010
			72	0.120
			73	0.060
			76	0.050
			77	0.030
			79	0.030
		BUKHARA	TOTAL	0.540
			2	0.010
			3	0.020
			4	0.020
			6	0.040
			10	0.010
			11	0.010
			103	0.040
			137	0.020
			TOTAL	0.170

DISTRICT	TEHSIL	VILLAGE	SURVEY NO.	AREA ACQUIRED (IN HECT)
BAREILLY	BAREILLY	MAHESHPUR THAKURAN	725	0.070
			737	0.010
			768	0.010
			769	0.030
			770	0.020
			772	0.100
			775	0.010
			820	0.110
			821	0.110
			822	0.060
			825	0.010
			829	0.030
			830	0.040
			831	0.020
			TOTAL	0.630
	KARAILI		1051	0.020
			1052	0.100
			1053	0.070
			1055	0.070
			1059	0.080
			1060	0.080
			1061	0.060
			1073	0.060
			1074	0.060
			1075	0.060
			1076	0.040
			1078	0.050
			1080	0.010
			1084	0.010
			1119	0.030
			1121	0.300
			1122	0.340
			1124	0.220
			1137	0.010
			1143	0.040
			1144	0.030
			1145	0.020
			1147	0.030
			1148	0.030
			1149	0.020
			1151	0.020
			1153	0.040
			1158	0.130
			1159	0.140
			1160	0.090
			1161	0.040
			1162	0.080
			1163	0.010
			1249	0.100

DISTRICT	TEHSIL	VILLAGE	SURVEY NO.	AREA ACQUIRED (IN HECT)
BAREILLY	BAREILLY	KARAILI Contd..	1251	0.020
			1254	0.010
			1255	0.100
			1256	0.010
			1257	0.040
			1258	0.040
			1260	0.010
			1261	0.030
			1263	0.030
			1265	0.020
			1266	0.010
			1270	0.030
			1271	0.020
			1272	0.040
			1273	0.010
			1301	0.010
			1319	0.010
			1348	0.010
			1349	0.070
			1350	0.130
			1351	0.030
			1352	0.020
			1353	0.030
			1354	0.100
			1361	0.010
			1338	0.010
			1400	0.010
			1401	0.010
			1402	0.020
			1403	0.030
			1406	0.010
			1407	0.010
			1409	0.010
			1410	0.030
			1411	0.080
			1412	0.010
			1417	0.010
			1418	0.090
			1419	0.030
			1421	0.010
			1422	0.090
			1423	0.010
			1424	0.010
			TOTAL	3.810
		KANDHARPUR	21	0.020
			22	0.030
			28	0.060
			29	0.010

1	2	3	4	5
BAREILLY	BAREILLY	KANDHARPUR	38	0.010
		Contd..	39	0.020
			51	0.280
			53	0.010
			TOTAL	0.440
		ABHAYPUR	160	0.010
		CAMP	161	0.010
			162	0.030
			163	0.030
			164	0.040
			165	0.010
			180	0.010
			181	0.020
			182	0.010
			185	0.020
			TOTAL	0.190

[No. L-14014/52/02-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 11 फरवरी, 2003

क्र०आ०..531..... केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि उत्तर प्रदेश राज्य में काण्डला-जामनगर-लोनी पाइपलाइन परियोजना के माध्यम से तरल पेट्रोलियम गैस के परिवहन के लिए गैल (इण्डिया) लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितवद्ध है, उस तारीख से, जिसके उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, सक्षम प्राधिकारी, गैल (इण्डिया) लिमिटेड, बी-35-36, सेक्टर-1, नोएडा, गौतमबुद्ध नगर (उत्तर प्रदेश) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे न.	क्षेत्रफल (हेक्टेयर में)
गौतमबुद्धनगर	दादरी	नौरंगाबाद	105	0.1200
			106	0.1080
			107	0.0920
			कुल	0.3200

[फा. सं. एल. - 14014/1/03-जी.पी.]
स्वामी सिंह, निदेशक

New Delhi, the 11th February, 2003

S.O. 531.-Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of liquid petroleum gas through Kandla-Jamnagar-Loni pipeline project in the State of Uttar Pradesh, a pipeline should be laid by the GAIL (India) Limited;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person, interested in the land described in the said Schedule may, within twenty-one-days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to the Competent Authority, GAIL (India) Limited, B-35-36, Sector-1, Noida, Gautam Budh Nagar (Uttar Pradesh).

SCHEDULE

DISTRICT	TEHSIL	VILLAGE	SURVEY NO.	AREA (IN HECTARE)
GAUTAMBUDH NAGAR	DADRI	NAURANGABAD	105	0.1200
			106	0.1080
			107	0.0920
			TOTAL	0.3200

[No. L-14014/1/03-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 11 फरवरी, 2003

का.आ.532..... केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि उत्तर प्रदेश राज्य में सिटी गेट स्टेशन फिरोजाबाद से दौलतपुर लूप लाइन परियोजना तक प्राकृतिक गैस के परिवहन लिए गेल (इण्डिया) लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, बी-35-36, सेक्टर-1, नोएडा, गौतम बुद्ध नगर (उत्तर प्रदेश) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे न.	अर्जित क्षेत्रफल (हेक्टेयर में)
फिरोजाबाद	फिरोजाबाद	बैन्दी	10	0.1995
			12	0.6469
			15	0.2500
			215	0.0300
			226 मि.	0.1750
			239	0.1740
			240	0.0870
			284 मि.	0.1110
			283	0.0750
			300	0.0590
			281	0.0754
			282	0.0150
			302	0.0956
			301	0.0850
			384	0.2125
			383	0.1456
			375	0.5500
			374	0.0360
			362	0.0060
			412	0.2400
			417	0.1935
			419	0.1100
			435	0.0160
			376	0.0100
			399	0.0700
			411	0.0038
			कुल	3.6718
		जरौलीकलों	161	0.0125
			144	0.0200
			146	0.0237
			148	0.0016
			149	0.0032
			150	0.1700
			157	0.0013
			158	0.0750
			159	0.1030
			151	0.0650
			147	0.0563
			कुल	0.5316

जिला	तहसील	गाँव	सर्वे न.	अर्जित क्षेत्रफल (हेक्टेयर में)
फिरोजाबाद	फिरोजाबाद	दौलतपुर	170	0.0900
			172	0.0100
			173	0.0080
			174	0.0280
			कुल	0.1360

[फा. सं. एल.-14014/02/2003-जी.पी.]
स्वामी सिंह, निदेशक

New Delhi, the 11th February, 2003

S.O. 532.....-Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through City Gate Station Firozabad to Doulatpur Loop Line project in the State of Uttar Pradesh, a pipeline should be laid by the GAIL (India) Limited:

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification:

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person, interested in the land described in the said Schedule may, within twenty-one-days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to the Competent Authority, GAIL (India) Limited, B-35-36, Sector-1, Noida, Gautam Budh Nagar (Uttar Pradesh).

SCHEDULE

DISTRICT	TEHSIL	VILLAGE	SURVEY NO.	AREA ACQUIRED (IN HECT)
FIROZABAD	FIROZABAD	BAINDI	10	0.1995
			12	0.6469
			15	0.2500
			215	0.0300
			226 Min.	0.1750
			239	0.1740
			240	0.0870
			284 Min	0.1110
			283	0.0750
			300	0.0590
			281	0.0754
			282	0.0150
			302	0.0956
			301	0.0850
			384	0.2125
			383	0.1456
			375	0.5500
			374	0.0360
			362	0.0060
			412	0.2400
			417	0.1935
			419	0.1100
			435	0.0160
			376	0.0100
			399	0.0700
			411	0.0038
			TOTAL	3.6718
		JAROULIKALA	161	0.0125
			144	0.0200
			146	0.0237
			148	
			149	0.0032
			150	0.1700
			157	0.0013
			158	0.0750
			159	0.1030
			151	0.0650
			147	0.0563
			TOTAL	0.5300

DISTRICT	TEHSIL	VILLAGE	SURVEY NO.	AREA ACQUIRED (IN HECT)
FIROZABAD	FIROZABAD	DOULATPUR	170	0.0900
			172	0.0100
			173	0.0080
			174	0.0280
			TOTAL	0.1360

[No. L-14014/02/2003-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 11 फरवरी, 2003

का. आ. 5-33. - केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में जामनगर से मध्यप्रदेश राज्य में भोपाल तक पुनः गैसीकृत द्रवित प्राकृतिक गैस के परिवहन के लिए गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कम्पनी लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में जिसके भीतर उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए ;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथाप्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाई जाने के संबंध में श्री एम. सी. रेजा, सक्षम प्राधिकारी, जी0 टी0 आई0 सी0 एल0 पाइपलाइन परियोजना, प्लॉट नं0 7, क्वालिटी बिजनेस सेन्टर, एम. पी. नगर, जोन-2, भोपाल, मध्यप्रदेश को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची				
तहसील: सीहोर	जिला:सीहोर		राज्य: मध्य प्रदेश	
गाँव का नाम			क्षेत्रफल	
	सर्वे नंबर	हेक्टर	आरे	सि-आरे
1	2	3	4	5
1. अमरोड	146	0	19	50
प.ह.नं. 45				
2. कल्याणपुरा	123/3, 128/3	0	07	00
प.ह.नं. 31				

[फा. सं. एल.-14014/31/2001-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 11th February, 2003.

S.O. 533. — Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of the regassified liquefied natural gas from Jamnagar in the State of Gujarat to Bhopal in the State of Madhya Pradesh a pipeline should be laid by Gas Transportation and Infrastructure Company Limited for implementing Jamnagar -Bhopal pipeline project;

And, whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub- section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of the notification issued under sub-section (1) of section 3 of the said Act, as published in the Gazette of India, are made available to the general public, object in writing to the laying of the pipeline under the land to Shri M.C.Reja, Competent Authority, GTICL Pipeline Project, Plot No.7, Quality Business Center, M.P.Nagar, Zone-II, Bhopal.

SCHEDULE

Tehsil:Sehore		District: Sehore		State: Madhya Pradesh	
Name of the Village				AREA	
	Survey No	Hectare	Are	C-Are	
1	2	3	4	5	
1. AMROD	146	0	19	50	
P.C.NO – 45					
2. KALYANPURA	123/3,128/3	0	07	00	
P.C.NO- 31					

[No. L-14014/31/2001-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 11 फरवरी, 2003

का. आ. 534 - केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र भाग 2, खण्ड 3, उपखण्ड (ii) तारीख 19 जनवरी, 2002 में पृष्ठ सं. 517से 542 पर प्रकाशित, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मन्त्रालय की अधिसूचना संख्या का. आ. सं. 132 तारीख 18 जनवरी, 2002 में निम्नलिखित संशोधन करती है, अर्थात् :-

पृष्ठ संख्या 528 पर,

स्तंभ 1 में गांव "बिजोरी" के सामने -

- (क) स्तंभ 2 की सर्वेक्षण संख्या "126-127" में स्तंभ संख्या 3,4 और 5 के "0-05-60" क्षेत्र के स्थान पर "0-07-00" क्षेत्र रखा जाएगा ;
- (ख) स्तंभ 2 की सर्वेक्षण संख्या "79" में स्तंभ संख्या 3,4 और 5 के "0-25-10" क्षेत्र के स्थान पर "0-26-70" क्षेत्र रखा जाएगा ;

[फा. सं. एल.-14014/31/2001-जी.पी.]
स्वामी सिंह, निदेशक

New Delhi, the 11th February, 2003

S.O 534. — In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O 132, dated the 16th January, 2002, published at pages 530 to 542 in Part II, Section 3, Sub-section (ii) of the Gazette of India, dated the 19th January, 2002, namely:-

In the Schedule to the said notification at page 539 against village "BIJORI" in column 1:-

- (a) in survey No. "126-127" in column 2, for the area "0-05-60" in columns 3, 4 and 5, the area "0-07-00" shall be substituted;
- (b) in survey No. "79" in column 2, for the area "0-25-10" in columns 3, 4 and 5, the area "0-26-70" shall be substituted.

[No. L-14014/31/2001-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 11 फरवरी, 2003

का. आ. 535. — केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का. आ. 1149 तारीख 1 अप्रैल 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मैसर्स गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कंपनी लिमिटेड द्वारा मैसर्स रिलायंस इन्डस्ट्रीज लिमिटेड, जो मैसर्स गैस ट्रांसपोर्टेशन एण्ड इन्फ्रास्ट्रक्चर कंपनी लिमिटेड की संप्रवर्तक कंपनी है, के गोवा के उत्तरी/दक्षिणी अपतट के खोज ब्लकों और आन्ध्रप्रदेश में संरचनाओं से कर्नाटक राज्य में बेलगाम जिले के विभिन्न उपभोक्ताओं तक प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 13 मई, 2002 को उपलब्ध करा दी गई थीं; और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोक्ता के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोक्ता के अधिकार का अर्जन किया जाता है ;

और आगे केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोक्ता का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लंगों से मुक्त मैसर्स गैस ट्रांसपोर्टेशन एंड इन्फ्रास्ट्रक्चर कंपनी लिमिटेड में निहित होगा ।

2							
अनुसूची 6 (1)							
तालुका अथनी		जिला बेलगाँव					
अ. क.	गांव का नाम	सर्वे नं.	हिस्सा नं.	गट नं.	राज्य कर्नाटक		
					क्षेत्र		
1	2	3	4	5	हेक्टेर	आर	सेंटीआर
1	पानढेगाँव	68	2/B		0	31	70
		68	2/A+1		0	18	90
		79	2		0	43	40
		79	3		0	01	20
		83	1		0	11	40
		93	A/2		0	31	30
		96	1		0	11	60
		99	1A		0	13	00
		99	1B		0	13	00
		रास्ता, सर्वे नं. 101 और 104 के बीच में			0	08	60
		104	1A		0	05	50
		104	1B		0	01	60
		15	1+2		0	16	00
		15	2		0	13	30
		15	3		0	20	30
		10	1		0	52	30
		10	2		0	41	90
		6	7		0	08	80
	कुल				3	43	80
2	खीलेगाँव	नाला, सर्वे नं. 143 और रंजनि गाँव के बीच में			0	07	70
		143	1/7		0	06	30
		143	1/16		0	19	50
		144	1		0	41	90
		रास्ता, सर्वे नं. 144 और 145 के बीच में			0	01	70
		146	1		0	28	20
		146	2		0	30	00
		155	2+3+C		0	08	60
		155	4		0	24	20
		155	5		0	00	60
		155	2+3A		0	18	20
		155	2+3B		0	20	40
		155	1		0	38	60
		रास्ता, सर्वे नं. 150 और 154 के बीच में			0	07	10
		154			0	15	00
		5	1		0	15	00
		6	1		0	45	40
		6	2+3		0	20	60
		6	4		0	26	80
		7	1+2		0	57	00
		नाला, सर्वे नं. 7 और 34 के बीच में			0	06	70
		34	1		0	64	80
		32	1B		0	37	30
		32	2A		0	32	60
		30	2B		0	44	40

1	2	3	4	5	6	7	8
	लीलेगांव नीरंतर	28	2		0	01	00
		58	1+2		0	39	60
		58	3A		0	33	50
		59	1A		0	19	40
		59	1B		0	22	50
		59	2		0	27	60
		59	3		0	26	70
		63	5B/2		0	09	70
		62			0	87	60
	गाढी रास्ता, सर्वे नं. 60, 62 और 63 के बीच में				0	17	20
	कुल				9	03	40
3	खजुर	68			0	26	00
	कुल				0	26	00

[फा. सं. एल.-14014/21/2002-जी.पी.]

स्वामी सिंह, निदेशक

New Delhi, the 11th February, 2003

S.O 535. - Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1149 dated the 1st April, 2002 published in the Gazette of India dated the 6th April 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962) (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of natural gas from the exploration blocks in the Northern/Southern Offshore of Goa and Structures in Andhra Pradesh of M/s Reliance Industries Limited, the promoter company of M/s Gas Transportation and Infrastructure Company Limited to the various consumers of District Belgaum in the State of Karnataka by M/s Gas Transportation and Infrastructure Company Limited;

And whereas copies of the said Gazette notification were made available to the public from 13th May 2002;:

And whereas the Competent Authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired, for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on the date of publication of the declaration, in Gas Transportation and Infrastructure Company Limited free from all encumbrances.

SCHEDULE - 6(1)

Taluka - Athani

District : Belgaum

State : Karnataka

Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
1	Pandegaon	68	2/B		0	31	70
		68	2/A+1		0	18	90
		79	2		0	43	40
		79	3		0	01	20
		83	1		0	11	40
		93	A/2		0	31	30
		96	1		0	11	60
		99	1A		0	13	00
		99	1B		0	13	00
		Road between Sy. No. 101 & 104			0	08	60
		104	1A		0	05	50
		104	1B		0	01	60
		15	1+2		0	16	00
		15	2		0	13	30
		15	3		0	20	30
		10	1		0	52	30
		10	2		0	41	90
		6	7		0	08	80
Total: -					3	43	80
2	Khilegaon	Nala between Sy. No. 143 & Ranjanal Boundry			0	07	70
		143	1/7		0	06	30
		143	1/16		0	19	50
		144	1		0	41	90
		Road between Sy. No. 144 & 145			0	01	70
		146	1		0	28	20
		146	2		0	30	00
		155	2+3+C		0	08	60
		155	4		0	24	20
		155	5		0	00	60
		155	2+3A		0	18	20
		155	2+3B		0	20	40
		155	1		0	38	60
		Road between Sy. No. 150 & 154			0	07	10
		154			0	15	00
		5	1		0	15	00

SCHEDULE - 6(1)							
Taluka - Athani		District : Belgaum			State : Karnataka		
Sl. No.	Village Name	Survey No.	Hissa No.	Gat No.	Area		
					Hectare	Are	Centiare
1	2	3	4	5	6	7	8
	Khilegaon Contd	6	1		0	45	40
		6	2+3		0	20	60
		6	4		0	26	80
		7	1+2		0	57	00
	Nala between Sy. No. 7 & 34				0	06	70
		34	1		0	64	80
		32	1B		0	37	30
		32	2A		0	32	60
		30	2B		0	44	40
		28	2		0	01	00
		58	1+2		0	39	60
		58	3A		0	33	50
		59	1A		0	19	40
		59	1B		0	22	50
		59	2		0	27	60
		59	3		0	26	70
		63	5B/2		0	09	70
		62			0	87	60
	Cart Track between Sy. No. 60, 62 & 63				0	17	20
	Total: -				9	03	40
3	Ajur	68			0	26	00
	Total: -				0	26	00

[No. L-14014/21/2002-G.P.]
SWAMY SINGH, Director

नई दिल्ली, 13 फरवरी, 2003

का. आ. 534..... केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का. आ. 2690 तारीख 20 अगस्त, 2002 द्वारा अधिसूचना से संलग्न अनुसूचि में विनिर्दिष्ट भूमि में इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा सलाया-मथुरा पाइपलाइन प्रणाली के विरमगाम-कोयली सेक्शन के संवर्धन को कार्यान्वित करने के लिए, गुजरात राज्य में विरमगाम से कोयली तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 31 अगस्त, 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम के धारा 6 के उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

ज.सू.पा.

तालुका : पेटलाद		जिल्ला : आणंद		राज्य : गुजरात	
गाँव का नाम	सर्वे संख्या	क्षेत्रफल			
		उप-खण्ड संख्या	हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6
संजाया	508		0	04	48
	503		0	12	48
	518		0	07	85
	517		0	06	77
	513		0	00	20
	512		0	12	75
	543		0	09	22

[फा. सं. आर-25011/3/2002-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 536..... Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2690 dated the 20th August, 2002 issued under sub section (1) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (herein after referred to as the said Act) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Crude Oil from Viramgam to Koyli in the State of Gujarat, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam – Koyli Section of Salaya-Mathura Pipeline System;

And, whereas, copies of the said notification were made available to the public on 31/08/2002 ;

And whereas, the Competent Authority has under sub-section (1) of section 6 of the said Act has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the schedule appended to this notification is hereby acquired;

And further, in the exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

Taluka : PETLAD		District : ANAND		State : GUJARAT	
Name of the Village	Survey No.	Sub-Division No.	Area		
			Hectare	Are	Sq. Mtr.
1	2	3	4	5	6
SANJAYA	506		0	04	48
	503		0	12	48
	518		0	07	85
	517		0	06	77
	513		0	00	20
	512		0	12	75
	543		0	09	22

[No. R-25011/3/2002-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. 537,..... केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का. आ. 3149 तारीख 1 अक्टूबर, 2002 द्वारा सलाया-मथुरा पाइपलाइन प्रणाली के विरमगाम-कोयली सेक्शन के संवर्धन के कार्यान्वयित करने के लिए, इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाईन बिछाई जाने के लिये अपरिष्कृत तेल का परिवहन करने के लिए विरमगाम से कोयली तक पाइपलाइन बिछाने के प्रयोजन के लिए उक्त अधिसूचना से संलग्न अनुसूचि में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 22 अक्टूबर 2002 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम के धारा 6 के उपधारा (1) के अधीन सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए ;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि के उपयोग के अधिकार का अर्जन किया जाता है;

और आगे केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाय सभी विलतंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तालुका : आणंद		जिल्ला : आणंद		राज्य : गुजरात	
गाँव का नाम	सर्वे संख्या	क्षेत्रफल			
		उप-खण्ड संख्या	हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6
करमसद	1296	1	0	04	64
	1296	2	0	02	48
	1296	3	0	02	55
	1280	1	0	10	34
	1280	2	0	12	54
	1280	3	0	11	07
	1236	1/1	0	08	73
	1236	1/2	0	10	12
	1236	2	0	08	63
	1237	3	0	08	86
	गाना	220	1	0	11
	220	2	0	00	88

[फा. सं. आर-25011/4/2002-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 537..... Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 3149 dated the 1st October, 2002 issued under sub section (1) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (herein after referred to as the said Act) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Crude Oil from Viramgam to Koyli in the State of Gujarat, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam – Koyli Section of Salaya-Mathura Pipeline System;

And, whereas, copies of the said notification were made available to the public on 22/10/2002;

And whereas, the Competent Authority has under sub-section (1) of section 6 of the said Act has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the schedule appended to this notification is hereby acquired;

And further, in the exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

Taluka : ANAND		District : ANAND		State : GUJARAT		
Name of the Village	Survey No.	Sub-Division No.	Area			
			Hectare	Are	Sq. Mtr.	
1	2	3	4	5	6	
KARAMSAD	1296	1	0	04	64	
	1296	2	0	02	48	
	1296	3	0	02	55	
	1280	1	0	10	34	
	1280	2	0	12	54	
	1280	3	0	11	07	
	1236	1/1	0	08	73	
	1236	1/2	0	10	12	
	1236	2	0	08	63	
	1237	3	0	08	86	
GANA	220	1	0	11	03	
	220	2	0	00	88	

[No. R-25011/4/2002-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. 538..... केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का. आ. 3071 तारीख 24 सितम्बर, 2002 द्वारा सलाया-मथुरा पाइपलाइन प्रणाली के विरमगाम-कोयली सेक्शन के संवर्धन के कार्यान्वयन के लिए, इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा गुजरात राज्य में विरमगाम से कोयली तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के लिए उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 16 अक्टूबर, 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी द्वारा पाइपलाइन बिछाई जाने के सम्बन्ध में जनता से कोई आक्षेप प्राप्त नहीं हुए हैं।

और सक्षम प्राधिकारी ने उक्त अधिनियम के धारा 6 के उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाये जाने के लिए अपेक्षित है उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाये जाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में पाइपलाइन बिछाये जाने के लिए उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

ज.सू.पा.

तालुका : महमदाबाद	जिल्ला : खेडा		राज्य : गुजरात		
गाँव का नाम	सर्वे संख्या	क्षेत्रफल			
		उप-खण्ड संख्या	हेक्टर	एकर	वर्ग मीटर
1	2	3	4	5	6
वासणाखुद	323		0	04	16
	7		0	01	58
	8		0	02	00
	9		0	00	20
खेडा	958	5	0	11	92

[फा. सं. आर-25011/4/2002-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 538.....Whereas by notification of the Government of India, in the Ministry of Petroleum and Natural Gas Number S.O. 3071, dated the 24th September, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam to Koyli in the State of Gujarat, a pipeline should be laid by Indian Oil Corporation Limited for implementing the Augmentation of Viramgam-Koyli section of Salaya - Mathura Pipeline System;

And whereas, copies of the said notification were made available to the public on the 16th October, 2002;

And whereas, no objections have been received by the competent authority to the laying of the pipeline;

And whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

SCHEDULE					
Taluka : MEHMEDABAD		District : KHEDA		State : GUJARAT	
			Area		
Name of the Village	Survey No.	Sub-Division No.	Hectare	Are	Sq. Mtr.
1	2	3	4	5	6
VASNA KHURD	323		0	04	16
	7		0	01	58
	8		0	02	00
	9		0	00	20
KHEDA	958	5	0	11	92

[No. R-25011/4/2002-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. 534..... केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं० का. आ. 2970 तारीख 16 सितम्बर, 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा सलाया-मथुरा पाइपलाइन प्रणाली के विरमगाम-कोयली सेक्शन के संवर्धन के कार्यान्वयन के लिए, गुजरात राज्य में विरमगाम से कोयली तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग का अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 9 अक्टूबर, 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम के धारा 6 के उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि पाइपलाइन बिछाने के लिए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

अनुसूची

तालुका : बोरसद		जिल्ला : आणंद		राज्य : गुजरात	
गाँव का नाम	सर्वे संख्या	क्षेत्रफल			
		उप-खण्ड संख्या	हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6
नापा तलपद	200	4	0	07	08
	158	3	0	09	72
	158	5	0	02	71
	154	3	0	06	38
	154	4	0	07	59
	139	3	0	08	26

[फा. सं. आर-25011/7/2002-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 539.....Whereas by notification of the Government of India, in the Ministry of Petroleum and Natural Gas Number S.O. 2970, dated the 16th September, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam to Koyli in the State of Gujarat by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam- Koyli section of Salaya - Mathura Pipeline System;

And whereas, copies of the said gazette notification were made available to the public on the 9th October, 2002:

And whereas, no objections to the laying of the pipeline; have been received by the competent authority

And whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas, the Central Government, has after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

SCHEDULE					
Taluka : BORSAD		District : ANAND		State : GUJARAT	
Name of the Village	Survey No.	Sub-Division No.	Area		
			Hectare	Are	Sq. Mtr.
1	2	3	4	5	6
NAPA TALAPAD	200	4	0	07	08
	158	3	0	09	72
	158	5	0	02	71
	154	3	0	06	38
	154	4	0	07	59
	139	3	0	08	26

[No. R-2501 1/7/2002-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. ..540..... केन्द्रिय सरकार को लोक हित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में विरमगाम से हरियाणा राज्य में पानीपत तक राजस्थान राज्य में चाकसू से होती हुई पेट्रोलियम (अपरिष्कृत) के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा "सलाया-मथुरा पाइपलाइन प्रणाली के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्द्धन" के कार्यान्वयन हेतु एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को यह आवश्यक प्रतीत होता है कि ऐसी पाइपलाइनें बिछाने के प्रयोजन के लिए इस अधिसूचना से संलग्न अनुसूची में वर्णित भूमि में उपयोग के अधिकार का अर्जन किया जाए।

अतः अब, केन्द्रिय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है उस तारीख से जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर उसमें उपयोग के अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर.एम.पंड्या, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन प्रभाग पो. बाक्स सं. 4, डाकघर-विरमगाम, जिला - अहमदाबाद, गुजरात -382150 को लिखित रूप में आक्षेपको भेज सकेगा।

अनुसूची

तालूका : विरमगाम		जिला : अहमदाबाद		राज्य : गुजरात	
गाँव का नाम	सर्वे सं.	उप-खण्ड सं.	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6
करियाला	25	-	0	19	82

[फा. सं. आर-25011/9/2001-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O.-540-----Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum (crude) from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the "Augmentation of Viramgam-Chaksu, Chaksu-Panipat & Chaksu-Mathura sections of Salaya-Mathura pipeline System";

And, whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which the copies of this notification as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri R.M.Pandya, Competent Authority, Indian Oil Corporation Limited, (Pipelines Division), P.B.No.4, P.O. Viramgam, Distt. Ahmedabad, Gujarat-382150.

SCHEDULE

Taluka : VIRAMGAM			District : AHMEDABAD		State : GUJARAT	
Name of the Village	Survey no.	Sub-Division no.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
KARIYALA	25	-	0	19	82	

[No. R-25011/9/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. 541..... केन्द्रीय सरकार को लोक हित में यह आवश्यक प्रतीत होता है कि गुजरात राज्य में विरमगाम से हरियाणा राज्य में पानीपत तक राजस्थान राज्य में चाकसू से होती हुई पेट्रोलियम (अपरिष्कृत) के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा "सलाया-मथुरा पाइपलाइन प्रणाली के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्द्धन" के कार्यान्वयन हेतु एक पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को यह आवश्यक प्रतीत होता है कि ऐसी पाइपलाइनें बिछाने के प्रयोजन के लिए इस अधिसूचना से संलग्न अनुसूची में वर्णित भूमि में उपयोग के अधिकार का अर्जन किया जाए।

अतः अब, केन्द्रिय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है उस तारीख से जिसको भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर उसमें उपयोग के अधिकार का अर्जन करने या भूमि के नीचे पाइपलाइन बिछाने के संबंध में श्री आर.एम.पंड्या, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाईन प्रभाग पो. बाक्स सं. 4, डाकघर-विरमगाम, जिला - अहमदाबाद, गुजरात -382150 को लिखित रूप में आक्षेपको भेज सकेगा।

अनुसूची

तालूका : देत्रोज रामपुरा		जिला : अहमदाबाद		राज्य : गुजरात	
गाँव का नाम	सर्वे सं.	उप-खण्ड सं.	क्षेत्रफल		
			हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6
रामपुरा	305	4	0	09	88

[फा. सं. आर-25011/9/2001-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 541. — Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum (crude) from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan, a pipeline should be laid by the Indian Oil Corporation Limited for implementing the "Augmentation of Viramgam-Chaksu, Chaksu-Panipat & Chaksu-Mathura sections of Salaya-Mathura pipeline System";

And, whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which the copies of this notification as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri R.M.Pandya, Competent Authority, Indian Oil Corporation Limited, (Pipelines Division), P.B.No.4, P.O. Viramgam, Distt. Ahmedabad, Gujarat-382150.

SCHEDULE

Taluka : DETROJ RAMPURA			District : AHMEDABAD		State : GUJARAT	
Name of the Village	Survey no.	Sub-Division no.	Area			
			Hectare	Are	Sq.mtr	
1	2	3	4	5	6	
RAMPURA	305	4	0	09	88	

[No. R-25011/9/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. 542. — केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 1621 तारीख 9 जुलाई 2001 द्वारा जो अधिसूचना सं. 2880 तारीख 10 सितम्बर 2002 द्वारा संशोधित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट (राजस्थान राज्य की तहसील, फागी, जिला जयपुर,) भूमि में सलाया-मथुरा पाइपलाइन प्रणाली परियोजना के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्धन के क्रियान्वयन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड, द्वारा गुजरात राज्य में विरमगाम से राजस्थान राज्य में चाकसू से होते हुए हरियाणा राज्य में पानीपत तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त संशोधनकारी अधिसूचना की प्रतियाँ जनता को तारीख 26 सितंबर 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि पाइपलाइन बिछाई जाने के लिए उक्त भूमि अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि पाइपलाइन बिछाई जाने के लिए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि पाइपलाइन बिछाई जाने के लिए उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : फागी

जिला : जयपुर

राज्य : राजस्थान

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
भेंदवास	1837	0	05	68
निमेड़ा	1619	0	15	14
	1808	0	02	18
	2882	0	03	88
कैरिया	471	0	04	43
	497/3	0	07	40
	502	0	07	40
	290/2	0	06	45
कैवरपुरा	202/2	0	08	80
	194	0	07	53
	72	0	07	04
	75	0	05	61
	96/5	0	13	15
	96/11	0	22	00

[फा. सं. आर-25011/15/2001-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 542.—Whereas by notification of the Government of India, in the Ministry of Petroleum and Natural Gas number S.O. 1621, dated the 9th July, 2001, as amended by notification number. S.O. 2880, dated the 10th September, 2002, and issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land (in **Tehsil : Phagi, District : Jaipur** in Rajasthan State) specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam-Chaksu, Chaksu- Panipat & Chaksu - Mathura sections of Salaya - Mathura Pipeline System Project;

And whereas, copies of the said amendment notification were made available to the general public on the 26th September, 2002;

And whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE**Tehsil : Phagi****District : Jaipur****State : Rajasthan**

Name of Village	Khasra No.	Area		
		Hectare	Are	Sq. mtr.
1	2	3	4	5
Maindwas	1837	0	05	68
Nimera	1619	0	15	14
	1808	0	02	18
	2882	0	03	88
Keria	471	0	04	43
	497/3	0	07	40
	502	0	07	40
	290/2	0	06	45
Kanwarpura	202/2	0	08	80
	194	0	07	53
	72	0	07	04
	75	0	05	61
	96/5	0	13	15
	96/11	0	22	00

[No. R-25011/15/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. 543. — केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 2881 तारीख 10 सितम्बर 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट (राजस्थान राज्य में तहसील फागी, जिला जयपुर,) भूमि में सलाया-मथुरा पाइपलाइन प्रणाली परियोजना के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्धन के क्रियान्वयन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड, द्वारा गुजरात राज्य में विरमगाम से राजस्थान राज्य में चाकसू से होते हुए हरियाणा राज्य में पानीपत तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 26 सितम्बर 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि पाइपलाइन बिछाई जाने के लिए उक्त भूमि अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि पाइपलाइन बिछाई जाने के लिए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि पाइपलाइन बिछाई जाने के लिए उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : फागी

जिला : जयपुर

राज्य : राजस्थान

गाँव का नाम	खसरा संख्या	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
मैंदवास	1899	0	06	84
	1991	0	00	66
	1995	0	01	43
	1992/1	0	17	12
निमेटड़ा	1205/5 मिन	0	17	41
	1697/1	0	08	87
	1817	0	04	19
	1825	0	00	75
	2062	0	00	58
	2803	0	00	12
	2874	0	06	39
	2945/4 मिन	0	17	27
	2990	0	02	16
	449	0	08	14
कैरिया				
कंवरपुरा	53	0	03	52
	54	0	00	20
	76	0	01	96
	96/1मिन	0	04	20
	96/2 मिन	0	01	20
	96/8/3 मिन	0	24	73
	96/8/4 मिन	0	3	1

[फा. सं. आर-25011/15/2. आर-1]

नका कुशाग्र सचिव

New Delhi, the 13th February, 2003

S.O. 543.—Whereas by notification of the Government of India, in the Ministry of Petroleum and Natural Gas number S.O. 2881, dated the 10th September, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land (in **Tehsil : Phagi, District : Jaipur** in Rajasthan State) specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam- Chaksu, Chaksu- Panipat and Chaksu - Mathura sections of Salaya - Mathura Pipeline System Project;

And whereas, copy of the said notification was made available to the general public on the 26th September, 2002;

And whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report and on being satisfied that the said land required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE**Tehsil : Phagi****District : Jaipur****State : Rajasthan**

Name of Village	Khasra No.	Area		
		Hectare	Are	Sq. mtr.
1	2	3	4	5
Maindwas	1899	0	06	84
	1991	0	00	66
	1995	0	01	43
	1992/1	0	17	12
Nimera	1205/5Min	0	17	41
	1697/1	0	08	87
	1817	0	04	19
	1825	0	00	75
	2062	0	00	58
	2803	0	00	12
	2874	0	06	39
	2945/4Min	0	17	27
	2990	0	02	16
	449	0	08	14
Keria	53	0	03	52
	54	0	00	20
Kanwarpura	76	0	01	96
	96/1Min	0	04	20
	96/2Min	0	01	23
	96/8/3Min	0	24	73
	96/8/4Min	0	32	30

[No. R-25011/15/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. 544.- केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 2685 तारीख 16 अगस्त 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट (राजस्थान राज्य में जिला पाली की तहसील बाली) की भूमि में सलाया-मथुरा पाइपलाइन प्रणाली परियोजना के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्धन के क्रियान्वयन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड, द्वारा गुजरात राज्य में विरमगाम से राजस्थान राज्य में चाकसू से होकर हरियाणा राज्य में पानीपत तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त अधिसूचना की प्रतियाः साधारण जनता को तारीख 31 अगस्त 2002 को उपलब्ध करा दी गई थी।

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूचि में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए।

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूचि में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लिंगमों से मुक्त होकर, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : बाली	जिला : पाली	राज्य : राजस्थान		
गाँव का नाम	खसरा सं.	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
नाना	184/4171/4211	0	16	38
	265 भिन	0	09	36
वीरमपुरा	1875	0	03	22
भन्दर	608	0	00	64
	607	0	10	16
	611	0	10	80
	612	0	00	60
	618	0	07	74
	972	0	01	37
	971	0	17	62
	970	0	00	20
	968	0	00	28
	966	0	05	21
	945	0	03	44
	962	0	00	20
	965	0	04	03
	946	0	12	56
	947	0	11	56

1	2	3	4	5
बेडा	3741/1 मिन	0	46	78
लुनावा	201/1	0	01	02
सेसली	812	0	00	40
सादलवा	114/5	0	09	69
मीटवाड़ा	1299	0	00	20

फुटनोट:

- 1 अधिसूचना संख्या का.आ०. 2685 तारीख 16 अगस्त 2002 भारत के राजपत्र भाग 2 खण्ड 3 उपखण्ड (ii) तारीख 24 अगस्त 2002 में प्रकाशित हुआ।

[फा. सं. आर-25011/33/2001-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 544 Whereas by notification of the Government of India, in the Ministry of Petroleum and Natural Gas number S.O. 2685, dated the 16th August, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land (in Tehsil : Bali, District : Pall in Rajasthan State) specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam- Chaksu, Chaksu- Panipat and Chaksu - Mathura sections of Salaya - Mathura Pipeline System Project;

And whereas, copy of the said notification were made available to the general public on the 31st August, 2002;

And whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted his report to the Central Government;

And whereas the Central Government after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the schedule appended to this notification is hereby acquired;

And further, in exercise of powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall, instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Bali	District : Pali	State : Rajasthan		
Name of the village	Khasara No.	Area		
		hectare	Are	Sq.mtr.
1	2	3	4	5
Nana	184/4171/4211	0	16	38
	265 Min	0	09	36
VIRAMPURA	1875	0	03	22
BHANDAR	608	0	00	64
	607	0	10	16
	611	0	10	80
	612	0	00	60
	618	0	07	74
	972	0	01	37
	971	0	17	62
	970	0	00	20
	968	0	00	28
	966	0	05	21
	945	0	03	44
	962	0	00	20
	965	0	04	03
	946	0	12	56
	947	0	11	56
BERA	3741/1 Min	0	46	78
LUNAWA	201/1	0	01	02
SESLI	812	0	00	40
SADALWA	114/5	0	09	69
BHEETWARA	1299	0	00	20

Footnote:

- (I) The notification Number S.O. 2685 dated the 16th August 2002, was published in the Gazette of India part II section 3 sub section (ii) dated 24th August 2002.

[No. R-25011/33/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

कां. आ. 545.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 2360 तारीख 10 सितम्बर 2001 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट (राजस्थान राज्य में जिला पाली की तहसील बाली) की भूमि में सलाया-मथुरा पाइपलाइन प्रणाली परियोजना के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्धन के क्रियान्वयन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड, द्वारा गुजरात राज्य में विरमगाम से राजस्थान राज्य में चाकसू से होकर हरियाणा राज्य में पानीपत तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और गाँव चामुंडेरी एवं भन्दर में कुछ खसरा संख्या के संबंध में पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 की धारा 3 की उपधारा 1 के अधिन जारी अधिसूचना का. आ. संख्या 2684 तारीख 16 अगस्त 2002 द्वारा प्रकाशित की गई थी।

और धारा 3(1) के अधिन अधिसूचना से सम्बंधित उक्त संशोधनकारी अधिसूचना की प्रतियाँ जनता को तारीख 31 अगस्त 2002 को उपलब्ध करा दी गई थी।

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधिन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो गया है कि इस अधिसूचना से उपाब्ध अनुसूचि में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जन किया जाना चाहिए।

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त होकर, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : बाली	जिला : पाली	राज्य : राजस्थान		
गाँव का नाम	खसरा सं.	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
चामुंडेरी	2700 मिन	0	11	51
भन्दर	1293	0	05	76
	1290	0	06	75
	1289	0	10	19
	1250	0	13	77
	613	0	29	28
	888	0	13	32

फुटनोट:

1. अधिसूचना संख्या का.आ0.2360 तारीख 10 सितम्बर 2001 भारत के राजपत्र भाग II खण्ड 3 उपखण्ड (ii) तारीख 15 सितम्बर 2001 में प्रकाशित हुआ।
2. अधिसूचना संख्या का.आ0. 2684 तारीख 16, अगस्त 2002 भारत के राजपत्र भाग 2 खण्ड 3 उपखण्ड (ii) तारीख 24 अगस्त 2002 में प्रकाशित हुआ।

[फा. सं. आर-25011/33/2001-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 545. Whereas by notification of the Government of India, in the Ministry of Petroleum and Natural Gas number S.O. 2360, dated the 10th September, 2001, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land (in Tehsil : **Bali, District : Pali** in Rajasthan State) specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam- Chaksu, Chaksu- Panipat and Chaksu - Mathura sections of Salaya - Mathura Pipeline System Project;

And whereas amending notification u/s 3 (1) in respect of certain Khasara Numbers in Village: Chamunderi and Bhandar, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 was published vide S.O. 2684 dated the 16th August, 2002;

And whereas, copies of the said amendment notification to notification u/s 3 (1) was made available to the general public on the 31st August, 2002;

And whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired.

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the schedule appended to this notification is hereby acquired;

And further, in exercise of powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall, instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Ball	District : Pali	State : Rajasthan		
Name of the village	Khasara No.	Area		
		hectare	Are	Sq.mtr.
1	2	3	4	5
CHAMUNDERI	2700 Min	0	11	51
BHANDAR				
	1293	0	05	76
	1290	0	06	75
	1289	0	10	19
	1250	0	13	77
	613	0	29	28
	888	0	13	32

Footnote :

- (i) The notification Number S.O. 2360 dated the 10th September, 2001 was published in the Gazette of India part II Section 3 sub section (ii) dated 15th September 2001.
- (ii) The notification Number S.O. 2684 dated the 16th August, 2002 was published in the Gazette of India Part II Section 3 sub section (ii) dated 24th August, 2002.

[No. R-25011/33/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. 546. — केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 2884 तारीख 10 सितंबर 2002 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट (राजस्थान राज्य की तहसील, पिण्डवाड़ा, जिला सिरोही) भूमि में सलाया-मथुरा पाइपलाइन परियोजना के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्धन के क्रियान्वयन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड, द्वारा राजस्थान राज्य में चाकसू से होकर गुजरात राज्य में विरमगाम से हरियाणा राज्य में पानीपत तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन त्रिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के लिए अपने आशय की घोषणा की थी;

और उक्त अधिसूचना की प्रतियाँ जनता को तारीख 26 सितंबर 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि पाइपलाइन बिछाई जाने के लिए उक्त भूमि अपेक्षित है, उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि पाइपलाइन बिछाये जाने के लिए इस अधिसूचना से उपाब्ध अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि पाइपलाइन बिछाई जाने के लिए उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : पिण्डवाड़ा	जिला : सिरौही	राज्य : राजस्थान		
गाँव का नाम	खसरा सं.	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
भारजा	680	0	08	59
कोदरला	453	0	11	33
चवरली	141/1	0	06	63
पिण्डवाड़ा	3633	0	08	90

[फा. सं. आर-25011/47/2001-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 596.....Whereas by notification of the Government of India, in the Ministry of Petroleum and Natural Gas number S.O. 2884, dated the 10th September, 2002, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land (in **Tehsil : Pindwara, District : Siróhi** in Rajasthan State) specified in the Schedule appended to that notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam - Chaksu, Chaksu - Panipat and Chaksu - Mathura sections of Salaya - Mathura Pipeline System Project;

And whereas, copies of the said notification was made available to the general public on the 26th September, 2002;

And whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government has after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the said land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : PINDWARA		District : SIROHI		State : RAJASTHAN	
Name of the Village	Khasara No.	Area			
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
BHARJA	680	0	08	59	
KODARLA	453	0	11	33	
CHAWARLI	141/1	0	06	63	
PINDWARA	3633	0	08	90	

[No. R-25011/47/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

नई दिल्ली, 13 फरवरी, 2003

का. आ. ८५७. - केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 3264 तारीख 29 नवम्बर 2001 द्वारा जो अधिसूचना सं. का.आ. 2883 तारीख 10 सितंबर 2002 द्वारा संशोधित की गई थी उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट (राजस्थान राज्य की तहसील, पिण्डवाड़ा, जिला सिरौही,) भूमि में सलाया-मथुरा पाइपलाइन प्रणाली परियोजना के विरमगाम-चाकसू, चाकसू-पानीपत और चाकसू-मथुरा सेक्शनों के संवर्धन के क्रियान्वयन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड, द्वारा राजस्थान राज्य में चाकसू से होकर गुजरात राज्य में विरमगाम से हरियाणा राज्य में पानीपत तक अपरिष्कृत तेल के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त संशोधनकारी अधिसूचना की प्रतियाँ जनता को तारीख 26 सितंबर 2002 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 5 की उप-धारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है;

और, केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि पाइपलाइन बिछाई जाने के प्रयोजन के लिए उक्त भूमि अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने को विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि पाइपलाइन बिछाई जाने के लिए इस अधिसूचना से उपाब्ध अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाता है।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि पाइपलाइन बिछाई जाने के लिए उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त होकर, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : पिण्डवाड़ा	जिला : सिरौही	राज्य : राजस्थान		
गाँव का नाम	खसरा सं.	क्षेत्रफल		
		हेक्टेयर	एयर	वर्ग मीटर
1	2	3	4	5
भारजा	518	0.	09	16
रामपुरा	103/2	0	13	19
	201	0	05	15
बनास	202/1	0	04	84
	115	0	06	33
	122	0	14	93
	99	0	01	59
	100	0	02	68
पिण्डवाड़ा	3625	0	17	33
	1208	0	00	70
	1210	0	01	27

[फा. सं. आर-25011/47/2001-ओ.आर-1]

रेनुका कुमार, अवर सचिव

New Delhi, the 13th February, 2003

S.O. 547. Whereas by notification of the Government of India, in the Ministry of Petroleum and Natural Gas Number S.O. 3264, dated the 29th November, 2001, as amended by notification number. S.O. 2883, dated the 10th September, 2002, and issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land (in Tehsil : Pindwara, District : Sirohi in Rajasthan State) specified in the Schedule appended to that

notification for the purpose of laying pipeline for the transportation of crude oil from Viramgam in the State of Gujarat to Panipat in the State of Haryana via Chaksu in the State of Rajasthan by the Indian Oil Corporation Limited for implementing the Augmentation of Viramgam- Chaksu, Chaksu- Panipat and Chaksu - Mathura sections of Salaya - Mathura Pipeline System Project;

And whereas, copies of the said amendment notification were made available to the general public on the 26th September, 2002;

And whereas, the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government has after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of the declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : PINDWARA		District : SIROHI		State : RAJASTHAN	
Name of the Village	Khasara No.	Area			
		Hectare	Are	Sq.mtr.	
1	2	3	4	5	
BHARJA	518	0	09	16	
RAMPURA	103/2	0	13	19	
	201	0	05	15	
	202/1	0	04	84	
BANAS	115	0	06	33	
	122	0	14	93	
	99	0	01	59	
	100	0	02	68	
PINDWARA	3625	0	17	33	
	1208	0	00	70	
	1210	0	01	27	

[No. R-25011/47/2001-O.R.-I]
RENUKA KUMAR, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 16 जनवरी, 2003

का. आ. 548.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ.एन.जी.सी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 78/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2002 को प्राप्त हुआ था।

[सं. एल-30012/8/89-आई. आर.(विविध)]

कुलदीप राय वर्मा, डैस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 16th January, 2003

S.O. 548.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 78/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oil & Natural Gas Commission and their workman, which was received by the Central Government on 23-12-2002.

[No. L-30012/8/89-IR(M)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,****LUCKNOW****PRESENT:**

Rudresh Kumar

Presiding Officer

I.D. No. 78/2002 (Delhi No. 28/90)

Ref. No. L-30012/8/89/IR (Misc.) dated 19-9-89

BETWEENSharwan Kumar S/o Lekh Raj, Wing No. 3,
Barrack No. 5/6, Prem Nagar, Dehradun**AND**The Chairman, Oil & Natural Gas Commission,
Dehradun**AWARD**

By Order No. L-30012/8/89/IR (Misc.) dated 19th Sept., 1989, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) and section 2(A) of section 10 of the I.D. Act, 1947 (14 of 1947) referred this industrial dispute between Sharwan Kumar S/o Lekh Raj, Wing No. 3, Barrack No. 5/6, Prem Nagar, Dehradun and the Chairman, Oil & Natural Gas Commission, Dehradun for adjudication to CGIT-cum-

Labour Court, Kanpur. Later the case was transferred dated 23-1-90 to CGIT-cum-Labour Court, New Delhi and again vide Order No. Z-20025/54/2001-CLS-II dated 19-4-2002, to this tribunal, for adjudication.

The reference under adjudication is as under :

“क्या ओ.एन.जी.सी. के प्रबन्धन द्वारा श्रवण कुमार पुत्र श्री लेखराज को 1-4-85 से नौकरी से निष्कासित करना न्यायोचित है? यदि नहीं तो कर्मकार किस अनुतोष का अधिकारी है?”

2. It is averred in the statement of claim that the workman, Sharwan Kumar, was appointed substantively on the vacant permanent post in group 'D' in the Clinic of Oil & Natural Gas Commission w.e.f. 25-1-83 and he continued as such till 8-8-83 with intermittent break of 21 days from 24-4-83 till 15-5-83. The breaks were ordered deliberately to deny legal right in favour of the workman. The workman was again engaged w.e.f. 5-12-83 and continued to work till March, 1984. Though he worked continuously, he, was shown in changed names to show discontinuity in service. The details of working from 5-12-83 are here under :

- (a) 05-12-83 to 31-12-83 = 27 days in own name
- (b) 01-01-84 to 31-01-84 = 31 days changed name as Vinod Kumar—payment received by Sharwan Kumar signing as Vinood Kumar.
- (c) 01-02-84 to 29-02-84 = 29 days changed name as Parveen Kumar received payment in aforesaid manner.
- (d) 01-03-84 to 04-03-84 = 4 days changed name, signed by somebody else but payment made to workman.
- (e) 05-03-84 to 31-03-84 = 27 days in workman's own name.

3. He was further engaged w.e.f. 1-4-84 and continued till 31-8-84 with one day's intermittent break on 1-7-84. From 9-9-84 the workman was attached with the Gas Authority of India (GAIL) in Tel Bhawan, and was allowed to continue till 31-12-84. He was given work on 1-2-85 and continued to work till 31-3-85. On 1-4-85 he was told verbally that his services stood terminated forthwith. No retrenchment compensation etc. were paid to him. Also, the procedures provided for termination of services of casual workers in the Certified Standing Orders, were not followed rendering his termination illegal and thus impugning termination w.e.f. 1-4-85.

4. The management has not disputed association of the workman on casual basis for the period stated in the statement of claim. However, it was disputed allegation of taking work in changed name. The total periods of working admitted by the management are here under :

25-01-83 to 24-04-83	=	90 days
16-05-83 to 08-08-83	=	85 days
01-04-84 to 30-06-84	=	92 days
02-07-84 to 31-08-84	=	61 days
01-02-85 to 31-03-85	=	59 days

The management contends that Gas Authority of India Ltd. was a distinct and separate legal entity and works rendered by the workman w.e.f. 16-9-84 to 31-12-84, can not be computed against it.

5. According to the management, total period of working of the workman is less than 240 days at any point of time in the preceding 12 calendar months, in reference to date of termination i.e. 1-4-85 and so, the provisions of section 25-B read with section 25-F, are not applicable and the workman is not entitled to benefits of Section 25-F of the I.D. Act. The management denies also that the workman rendered 180 days service in any period of consecutive 12 months to bring his case under Order 2(a) of the Certified Standing Orders and so, was not entitled to conversion in regular services of the Oil & Natural Gas Commission. It is also contended that Order 14 of the Certified Standing Orders is not attracted in the circumstances of the case.

6. The working period as given in para 4 is admitted by the parties. During these periods, the workman was a daily wage worker. The A/R of the workman conceded that the Gas Authority of India Ltd. was distinct and separate company and was not a unit of the Oil & Natural Gas Commission. So, the period of working between 10-9-84 to 31-12-84 with the Gas Authority of India Ltd., can not be counted as period of working with the Oil & Natural Gas Commission to provide the benefit of Section 25-B/25-F of the I.D. Act. On excluding this period of the remaining period does not show working for 240 days. There is no evidence to show working in changed names. The onus to prove that it was the workman who worked actually in the name of others remained undischarged. This onus was on the workman which has not been discharged by him. As such there is no evidence on record to prove 240 days actual working of the workman.

7. The total working period in the preceding 12 calendar months prior to 1-4-85 i.e. in between 1-4-84 to 31-3-85 comes to be 207 days only. This period is much below 240 days and so, is not covered under Section 25-B of the I.D. Act entitling him to avail benefit under Section 25-F of the said Act.

8. Order No. 2 of the Certified Standing Orders, is produced :

- 2.(i) Classification of workmen : The contingent employees of the Commission shall hereafter to be classified as :
 - (a) Temporary, and
 - (b) Casual

(ii) A workman who has been on the rolls of the commission and has put in not less than 180 days of attendance in any period of 12 consecutive months shall be a temporary workman, provided that a temporary workman who has put in not less than 240 days and who possesses the minimum qualification prescribed by the Commission may be considered for conversion as regular employee.

(iii) A workman who is neither temporary nor regular shall be considered as casual workman.

9. Under Order 2(ii), a workman who has been in the rolls of the Commission and has put in not less than 180 days of attendance in period of 12 consecutive months, shall be temporary workman entitled to be considered for conversion as a regular employee. The admitted working period is 153 days which is short of 180 days of attendance in the 12 consecutive months. In the said circumstances, the workman was not entitled to be considered for conversion in regular services of the Oil & Natural Gas Commission. He was not a 'temporary employee' as envisaged under Order 2 of the Certified Standing Orders and so, was not entitled to any notice under Order 14. It has already been held that he had not worked 240 days to be entitled to benefit of notice or retrenchment compensation under Section 25-F of the said Act.

10. Accordingly, the action of the management in terminating the services of the workman w.e.f. 1-4-85 can not be faulted. The workman is not entitled to any relief.

11. Award as above.

RUDRESH KUMAR, Presiding Officer

Lucknow
12-12-2002

नई दिल्ली, 16 जनवरी, 2003

का. आ. 549.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसूर सीमेंट्स लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बेंगलूर के पंचाट (संदर्भ संख्या 11/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2002 को प्राप्त हुआ था।

[सं. एल-29011/25/98-आई. आर.(विविध)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 16th January, 2003

S.O. 549.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/99) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of Mysore Cements Ltd. and their workmen, which was received by the Central Government on 23-12-2002.

[No. L-29011/25/98-IR(M)]

KULDIP RAI VERMA, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT.

“SHRAMSADAN”

III Main, III Cross, II Phase, Tumkur Road,
Yeshwanthpur, Bangalore.

Dated : 12th December 2002

Present

Hon'ble Shri V.N. Kulkarni, B.Com., LL.B,
Presiding Officer

CGIT-cum-Labour Court,
Bangalore

C.R. No. 11/1999

I Party

The Secretary,
Mysore Cements Ltd.
Employees Association,
Ammasandra-5722110

II Party

The Chief Personnel Manager,
M/s. Mysore Cements Ltd.,
Ammasandra,
Ammasandra-572211

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-29011/25/98/IR (M) dated 11th January, 1999 for adjudication on the following schedule :

SCHEDULE

“Whether the demand Nos. 1, 2, 3, 4, 5, 7 and 8 raised by Mysore Cements Employees Association vide their letter dated 23-12-1996 (copy attached) against the management of Mysore Cements Ltd. is justified? If so, to what relief the workmen are entitled?”

2. Joint Memo is filed by both the parties. Mysore Cements Limited Employees Association has raised this dispute against the Management and the competent authority has referred the dispute.

3. First Party appeared and filed Claim Statement. The Management has not filed any Counter and at that stage Joint Memo is filed stating that the matter is settled and the first party union has prayed permission to withdraw the dispute. Accordingly I Proceed to pass the following Order :

ORDER

The reference is answered and disposed off as withdrawn by the First Party Union.

Dictated to PA transcribed by her corrected and signed by me on 12th December, 2002.

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 16 जनवरी, 2003

का. आ. 550.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिनरल एक्सप्लोरेशन कार्पो. लि. के प्रबंधन के संबंध में निदेशित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के पंचाट (संदर्भ संख्या 66/02) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2002 को प्राप्त हुआ था।

[सं. एल-29011/24/98-आई. आर.(विविध)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 16th January, 2003

S.O. 550.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/02) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mineral Exploration Corpn. Ltd. and their workman, which was received by the Central Government on 23-12-2002.

[No. L-29011/24/98-IR (M)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT SHRI B.G. SAXENA, PRESIDING OFFICER

REFERENCE NO. CGIT : 66/2002

MINERAL EXPLORATION CORPORATION LTD.

AND

THE GENERAL SECRETARY, MEC EMPLOYEES UNION

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub Section (1) and Sub Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-29011/24/98/IR(M) dt. 11-01-1999 on following schedule.

SCHEDULE

“Whether the demand of MEC Employees Union for payment of 18% interest over the arrears to be paid

on account of increase of industrial D.A. from 01-01-1989 onwards to all the employees of MECL in accordance with Ministry of Industry, BPE resolution No. 1(2)/90-DPE(WC) dated 19-03-1993 is lawful and justified? If so, to what relief the workmen are entitled?"

This reference was sent to C.G.I.T., Jabalpur by the Ministry of Labour, New Delhi vide order dt. 11-01-99. The case was registered at C.G.I.T., Jabalpur on 27-01-99 and the notice was issued to the parties for submitting their claim on 10-11-99 but the union of the workmen did not submit any Statement of Claim in C.G.I.T., Jabalpur.

This file was received by transfer at C.G.I.T., Nagpur on 29-07-02. Notices were issued to both the parties fixing 26-08-02. The advocates of both the parties submitted their Vakalatnama in this Court on 26-08-02. The advocate of the union of MECL did not submit any Statement of Claim from the side of the employees of MECL.

The case was further adjourned to 30-09-02. Both the parties absented on this date. No Statement of Claim was filed by the advocate of the union of the workmen.

The case was again adjourned to 20-11-02. On this date also the counsel for the union of the workmen did not submit any Statement of Claim. Both the parties absented on this date. The case was again adjourned to 03-12-02 for filing Statement of Claim.

On 03-12-02 both the parties absented. The counsel for the workmen's union did not submit any Statement of Claim from the side of MECL employees.

As no Statement of Claim has been submitted from the side of MECL employees either through their union or through their advocate, no relief can be granted to them.

ORDER

The employees of MECL (Mineral Exploration Corporation Ltd.) have not submitted any Statement of Claim either through their union representative or General Secretary of MECL Employees Union or through the advocate of their union, no relief can be granted to the workmen.

The reference is disposed of for want of prosecution.

B. G. SAXENA, Presiding Officer

नई दिल्ली, 16 जनवरी, 2003

का. आ. 551.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट आथोरिटी ऑफ इण्डिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 104/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-12-2002 को प्राप्त हुआ था।

[सं. एल-11012/9/98-आई. आर. (विविध)]

कुलदीप राय वर्मा, डैस्क उ. अधिकारी

New Delhi, the 16th January, 2003

S.O. 551.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 104/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workmen, which was received by the Central Government on 23-12-2002.

[No. L-11012/9/98-IR (M)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 18th November, 2002

Present: K. KARTHIKEYAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 104/2001

(Tamil Nadu State Industrial Tribunal I.D.No. 57/99)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri S. Premkumar and the Management of International Airport Authority of India.)

BETWEEN

Sri S. Premkumar : I Party/Workman

AND

The Airport Director, : II Party/Management.
Airport Authority of India,
(International Airports Division)
Chennai Airport, Chennai.

Appearance:

For the Workman : M/s. V.J. Anil Raj & D.
Dhanam, Advocates

For the Management : M/s. A. J. Jawad, & K. S.
Ilagovan, Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-11012/9/98 dated 11/17-03-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, Chennai. The same was taken on file as I.D. No. 57/99. When the matter was pending enquiry in the Tribunal, Government of India

Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu State Industrial Tribunal to this Tribunal for adjudication. On receipt of records from that Tamil Nadu State Industrial Tribunal, this case has been taken on file as I.D. No. 104/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 31-1-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted that this case further.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, after hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. adjudication by this Tribunal is as follows :—

“Whether the action of the management of International Airport Authority of India in terminating Shri S. Premkumar, Fire Operator by their order dated 14-8-97 is justified? If not, to what relief is he entitled?”

2. The averments in the Claim Statement of the I Party/Workman Sri S. Premkumar (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner was appointed as a Fire Operator by the II Party/Management Airport Authority of India (hereinafter refers to as Respondent) during the year 1976. Due to his efficient, sincere and dedicated work, he was promoted as Fire Foreman by letter dated 8.10.90. He had put in an unblemished record of service and had always discharged his duties to the entire satisfaction of his superiors. He was suffering from severe Asthma disease and as the said disease worsened, he could not attend the office from 4.11.96 to 10.2.97. However, on 11.2.97, he reported for duty along with medical certificate but he was told that such medical certificate would not be accepted and was denied resumption of work on the specific plea of weekly off. The Petitioner was ready and willing to resume work on 11.2.97, but the same was denied by Respondent and therefore, the Petitioner had no option but to stay away from his job due to the attitude of the Respondent/Management. The Petitioner did not receive all memorandums sent by the Respondent. The Petitioner again was taken, ill seriously and could not report for duty. All of a sudden, the impugned order dated 14.8.97 was passed by the Respondent/Management striking of the

Petitioner's name from the rolls of AAI with immediate effect. No enquiry was held for his absence. The Petitioner in spite of giving medical certificate on 11.2.97 was summarily terminated without being given an opportunity to be heard in person, which is a violation of principles of natural justice and fundamental rights guaranteed under the Constitution of India. Without following the mandatory rules, his termination from service is per se without jurisdiction and liable to be quashed. Clause 31(2)(vi) of General Conditions of Service is not applicable to the Petitioner. The said rule is also highly arbitrary and would not stand the test of reasonableness and fairness under Article 14 of Constitution of India. The impugned order of the Respondent is invalid without jurisdiction, illegal and unjust and as such liable to be set aside. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award holding that the striking of the name of the Petitioner from the rolls of the Respondent/Management by letter dated 14.8.97 as illegal and not justified and consequently direct the Respondent to reinstate the Petitioner in service with continuity of service, back wages and attendant benefits.

3. The averments in the Counter Statement filed by the II Party/Management Airport Authority of India (hereinafter refers to as Respondent) are briefly as follows :—

The Petitioner was appointed by the Respondent as a Fire Operator in the year 1976. However, his claim that he was efficient, sincere and dedicated is contrary to his record of service and so also his claim that he has put in an unblemished record of service. The Petitioner was a chronic absentee and he used to remain absent from duty on several occasion under various pretexts despite repeated warnings and letters from the Respondent. The Petitioner remained absent from duty from 4.11.96 to 10.2.97. Therefore, the Respondent issued a memo dated 5.2.97 directing the Petitioner to explain reasons for his unauthorised absence and to rejoin duty within ten days of issue of the memo. The Petitioner was further apprised that as per Regulation 31(1) of IAAI (General Conditions of Service) Regulations, 1980, an employee who is absent from duty without any authority, shall not be entitled to the pay and allowances during the period of such absence. The unauthorised absence of this kind apart from resulting in loss of pay and allowances for the period of such absence, would also constitute a break-in-service entailing forfeiture of past service, unless the break itself is condoned and treated as dies non. After receiving the above mentioned memo, the Petitioner appeared before the Respondent and produced a medical certificate along with a fitness certificate to resume his duty from 11.2.97. However, for the reasons best known to him, the Petitioner did not perform any duty and on contrary continued to remain absent unauthorisedly. The allegation made by the Petitioner to the effect that the Respondent refused to accept the medical certificate and refused to allow him to resume his duties is incorrect and

untrue and is nothing but a self-serving statement. It is false to say that the Petitioner was denied resumption of work on the plea of weekly off. The Petitioner showed no inclination to report for duty. Hence, the Respondent issued a second memo dated 29.5.97 directing the Petitioner to report for duty within ten days from the date of memorandum and also to explain the reasons for his continued unauthorised absence. However, the Petitioner even after receiving the said memorandum has not replied to the same. Since the Petitioner continued to remain absent from 4.11.96 onwards, a letter dated 25.3.97 was issued to him directing him to produce evidence of results of investigation and details of drugs taken by him during the period 4.11.96 to 10.2.97. The cover sent by the Respondent was returned by the postal department with the remark 'refused'. Therefore, the Respondent/Management issued a 4th memo dated 29.5.97 calling upon the Petitioner to report for duty within ten days from the date of issue of the memo failing which it will presume that he is not interested in continuing his employment with the Respondent. To this also there was neither any response from the Petitioner nor any compliance. As this sorry state of affairs could not be allowed to continue indefinitely, a show cause notice was issued to the Petitioner by a memo dated 5.7.97 stating that under Regulation 31 para 2 clause 6 of the IAAI (General Conditions of Service) Regulations, 1980, it is provided that if an employee remains absent without any intimation/prior permission for a period of two months, he will be deemed to have abandoned his job and his services will be terminated without notice. The Petitioner was called upon to submit his explanation within 15 days from the date of issue of the memo failing which his services will be terminated. The Petitioner failed to issue any reply to the above show cause notice and therefore, after giving him due opportunity, his services were terminated and his name was struck off from the rolls of the Respondent by a letter dated 14.8.97. The services of the Petitioner have been terminated after following the due process of law and after giving ample opportunity to the Petitioner to resume his services and on his failure to do so opportunity was also given to him to show cause why his services should not be terminated. The Respondent has not violated any of the principles of natural justice or the provisions of Constitution of India and has strictly complied with the procedure laid down by the departmental regulations. The case of the Petitioner is one among the established misconducts. The order of termination has been correctly passed after following the correct procedure and after giving ample opportunity to the Petitioner. On the contrary, the Petitioner has been wilfully absenting himself from duty and has further compounded the misconduct by even refusing to receive the letter sent by the Respondent and failing to reply to the memoranda and show cause notice issued by the Respondent. Therefore, it is prayed that this Hon'ble Court may be pleased to dismiss the petition with cost.

4. When the matter was taken up for enquiry finally, the Petitioner himself has been examined as a witness as WW1 and 8 documents were marked on the side of the I Party/Workman as Ex. W1 to W8. On the side of the II Party/Management one witness Smt. R.Latha, Assistant General Manager (Personnel) has been examined as MW1 and ten documents have been marked as Ex.M1 to M10. The arguments advanced by the learned counsel on either side were heard.

5. The Point for my consideration is -

"Whether the action of the management of International Airport Authority of India in terminating Shri S.Premkumar, Fire Operator by their order dated 14.8.97 is justified? If not, to what relief is he entitled?"

Point :—

This industrial dispute has been raised by the I Party/ Workman Sri S. Premkumar challenging the action of the II Party/Management International Airport Authority of India in striking off his name from the rolls of Airport Authority of India w.e.f. 14.8.97 as unjustified. It is admitted that the Petitioner was selected for the post of Fire Operator and was appointed as such in the year 1976. The xerox copy of that appointment order dated 24.12.1975 is Ex.W1. Subsequently, by an office order dated 8.10.90, the Petitioner was promoted as Fire Foreman. The xerox copy of that order is Ex.W2. It is admitted by the Petitioner in his Claim Statement itself that he was suffering from severe Asthma and hence, he could not attend office from 4.11.96 to 10.2.97 and that he reported for duty with the medical certificate on 11.2.97, but he was denied resumption of work on the specific plea that it was his weekly off and hence he could not join duty on that day. It is his further contention that since he was taken ill again seriously, he could not report for duty subsequently. But the Respondent would contend in their Counter Statement that the Petitioner was a chronic absentee and he used to remain absent from duty on several occasions under various pretexts despite repeated warnings and letters from the Respondent. The Petitioner deposed as WW1 before this Tribunal that his suffering from Asthma in the year 1996, got worsened in the month of November, 1996 and it affected him till 10-2-97, so he could not attend the office. It is also his evidence that he went to report for duty on 11-2-97 before the Assistant Director, Fire Section, who told him to come for duty the next day, so he could not join duty on 11-2-97. It is his further evidence that since he was severely affected with Asthma on 12-2-97, he had not gone for duty and that he was taking treatment temporarily and later took treatment at Hindu Mission Hospital, Nanganallur and Margaret Sidney Hospital at Anna Nagar. It is also his evidence that during that period of taking treatment for his asthmatic complaint, he got various medical reports for his treatment and the xerox copies of the same are Ex.W 4 to

W6. Ex.W3 is the xerox copy of the order dated 14.8.97 passed by the Airport Director for striking of the name of the Petitioner from the rolls of AAI with immediate effect. It is the evidence of WW1 that prior to that order of termination of service, he has not received any show cause notice in the month of July, 1997 and without conducting an enquiry, the Respondent/Management has passed an order under Ex.W3 and hence, he gave a representation to the Respondent/Management one on 30.8.97 and another on 24.9.97 and the Xerox copies of the same are Ex.W7 and W8 respectively and as the Respondent/Management has not responded for his representations, he raised this industrial dispute. In the cross examination, he has admitted that for his absence to duty from 4.11.96 he had not submitted any leave application to the Respondent/Management and he would say further that he requested / his neighbour to inform through phone about his inability to attend the work. He has admitted that he has not deposed so in the Chief Examination and has not mentioned so in his Claim Statement also. It is his admission that he knows that he has to submit leave application, as and when he wants to avail leave. He also admits that prior to 11.2.97 he received a memo dated 5.2.97 from the Respondent/Management and the xerox copy of the same is Ex.M1. In that memo Ex.M1 it is stated that the Petitioner has been absenting himself from duty since 4.11.96 without any intimation/prior permission and he has been directed to explain reasons for his unauthorised absence and he has been further directed to join duty within ten days of the issue of that memorandum. A warning also has been given by the Respondent/Management to the Petitioner that failure to join duty will be presumed that he is not interested in continuing his employment with Airport Authority of India. It is the admission of WW 1 that he used to receive the communications from the Respondent/Management sent by ordinary post. It is also his admission that he has not sent any notice to the Respondent/Management that when he reported for duty on 11.2.97 he was not permitted to join duty and he was not admitted in hospital for taking treatment for his ailment from 11.2.97 and he has no other document except Ex.W4 to W6 to show about his ailment and treatment. He has denied the suggestion that he knows the show cause notice dated 5.7.97 sent to him by post and having known the same, he has not attended the enquiry. On the side of the Respondent/Management the Assistant General Manager (Personnel) Smt. R.Latha was examined as MW1. It is her evidence that the Petitioner has been a chronic absentee for work during 1995 to 1996 and he had not turned up for work from 4.11.96 to 13.2.97 and the xerox copy of the memo dated 5.2.97 issued to the Petitioner is Ex.M1. It is her further evidence that a memo dated 20.3.97 was given to the Petitioner on 25.3.97 to produce evidence for results of investigation and the detailed sub drugs taken by him along with prescription and bills during the period from 4.11.96 to 10.02.97. The xerox copy of that memo is Ex.M2 and that the memo sent to the Petitioner by

registered post to his residential address returned unserved with the postal acknowledgement as 'refused'. She has produced the returned cover with the postal endorsement as Ex.M3. Ex.M4 is the entry available in the Despatch Register for 25.3.97 for having despatched the memo by registered post on 25.3.97. It is her further evidence again on 25.9.97 another memo to the Petitioner was issued directing him to report for duty within ten days from the date of issue of that memorandum and the xerox copy of the same is Ex.M5. It was also sent by registered post and the entry for the same in the despatch register is Ex.M6. It is her further evidence that though the memo was received by the Petitioner he has not reported for duty as directed. So, a show cause notice was issued to the Petitioner dated 4.7.97 and the xerox copy of the same is Ex.M7. In that show cause notice, the Petitioner was directed to submit his explanation within 15 days from the date of issue of that memo. The said memo was also despatched to the Petitioner on 7.7.97 and the entry available in the Despatch Register for the same is Ex.M8. It is also her evidence that unless the letter sent by registered post is returned unserved, they are not in the habit of preserving the postal acknowledgement card for the letter served, which was sent by registered post with acknowledgement due. She has also stated in her evidence that the show cause notice sent to the Petitioner was received by him and after the receipt of show cause notice, the Petitioner has not reported for duty and has not submitted any explanation and the show cause notice sent to the Petitioner by registered post has not been returned to them as unserved and thereafter only, an order has been passed on 14.8.97 to struck off the name of the Petitioner from the roll of the Respondent and the xerox copy of that is Ex.W3. It is her further evidence that all these letters and notices were sent to the Petitioner to his residential address No.3, 12th Street, Nanganallur, Chennai. She would further say in her evidence that the employees of the Respondent/Management are governed by General Conditions and Service Regulations, 1980 and as per Regulation No.31(2)(vi) of General Conditions of Service Regulation, if a person remain absent without permission or intimation for a period of two months, he is deemed to have abandoned his job and his services can be terminated, without any notice. She would further say that in spite of this regulation, they have issued show cause notice to the Petitioner and only thereafter the name of the Petitioner has been struck off from the rolls of the Respondent/Management.

6. The learned counsel for the Petitioner would argue that subsequent to 11.2.97 the Petitioner never reported for duty due to his severe asthma complaint. Ex.W4 to W6 the medical reports filed by the Petitioner here to show that he was suffering from Asthmatic complaint for which he has taken treatment and the Respondent/Management without conducting an enquiry by issuing a charge memo for his absence for duty, has passed the impugned order and it is against the principles of natural justice and if an

opportunity had been given by the Respondent/Management to the Petitioner, he would have established the valid reasons for his absence for duty and hence, the order passed by the Respondent/Management in removing his name from the rolls of the Respondent without giving him a reasonable opportunity to explain reasons for his absence for duty is against the provisions of law and an arbitrary decision and it has got to be set aside. He has also cited some decisions of various High Courts and the Hon'ble Supreme Court. But those cited cases are not relevant to the facts of this case. On the other hand, the learned counsel for the Respondent/Management had argued that the absence for duty by the Petitioner without any intimation for applying leave or prior sanction of leave for more than a continuous period of two months amounts to abandonment of service on his own volition and hence as per the terms of Clause 31(2)(vi) of General Conditions of Service Regulations, 1980 of International Airports Authority of India, the Petitioner's name was struck down from the rolls of the Respondent. Under Clause 31(2)(vi) of IAAI (General Conditions of Service) Regulations, 1980, it is mentioned as follows:-

"If an employee remains absent without any intimation/prior permission for a period of two months, he will be deemed to have abandoned his job and his services will be terminated without any notice."

By applying this Service Regulations only, the Respondent/Management has taken action against the Petitioner for his unauthorised absence subsequent to 4-11-96 for duty. Since it has not been regarded as a misconduct, the question of conducting an enquiry does not at all arise. The fact that he had absent for duty continuously for a long period is admitted by the Petitioner and not disputed. The learned counsel has relied upon a decision of the Hon'ble High Court of Bombay in a case reported as 1995 LAB IC 498, AMGAUDA SIDARAM HAKKE Vs. MAHARASHTRA SMALL SCALE INDUSTRIES DEVELOPMENT CORPORATION AND ANOTHER, wherein the Hon'ble High Court has held that 'inference of voluntary abandonment of service was justified and even assuming that termination was for misconduct without holding an enquiry, this was not a fit case for interference because the Petitioner's case of sickness was not true.' He would further argue that in the present case also, the alleged sickness of the Petitioner has not been proved with acceptable legal evidence and hence, the above cited Bombay High Court decision is quite applicable to the present case also. This argument of the learned counsel for the Respondent/Management can be accepted as correct. It is in evidence in this case that before passing an order of removing the name of the Petitioner from the rolls of the Respondent under Ex.W3, notices have been sent to the Petitioner with a direction to report for duty and for those notices, the Petitioner has not

responded at all. For the Ex.M1 memo dated 4-2-1997, which has been admitted to be received by the Petitioner, as seen from the evidence, he has not given any reply in writing. Though he has alleged to have reported for duty on 11-2-97, he remained absent subsequently continuously without reporting back for duty. For that he would say that he was again affected with asthma severely and was taking treatment for the same. That has not been proved by the Petitioner by way of letting any acceptable evidence. There is no record to show that he became seriously ill from the night of 11-2-97. In the cross examination as MW1 has admitted that he has not produced any record for his continuous medical treatment taken for his serious asthmatic complaint. Ex.M2 memo dated 25-3-97 sent to the Petitioner was returned unserved with the postal acknowledgement as 'refused' which is marked as Ex.M3. The receipt of Ex.M5 memo dated 29-5-97 has not been disputed. There are sufficient evidence to that effect available on the side of the Respondent/Management that all these memos have been despatched in the usual course of business. There are entries available in the despatch register maintained by the Respondent/Management. It cannot be presumed that the letters have not been despatched after the entries have been made in the despatch register. So presumption under 114 of the Evidence Act can be drawn on the basis of the available records and the entries in the despatch register that this has been done in the usual course of business. No suggestion to MW1 in the cross examination has been made that all these documents are only make belief documents created mala fide. On the other hand, it establishes that the principles of natural justice is sufficiently complied with in this case. The continuous period of absence by the Petitioner is admitted. No evidence before this Court to show that the Petitioner was genuinely unwell to be absent from duty. He has also not made any attempt to inform the same to the Respondent/Management. He would say in his evidence that he asked his neighbour to inform the Respondent/Management about his inability to attend to work due to his ill health. It is neither pleaded in his Claim Statement nor proved by sufficient supportive evidence. No record has been produced by the Petitioner to show that he was seriously unwell and was taking treatment for chronic asthmatic complaint for his period of absence continuously. So, from this, it is seen that nothing is available to show that he was prevented from joining duty. For his contention that he was prevented to join duty on 11-2-97 when reported for duty, he had not issued any notice to the Respondent/Management to that effect. So, under such circumstances, the Respondent/Management after taking reasonable steps had no other option but to pass an order under clause 31(2) (vi) of IAAI General Conditions of Regulations, 1980 under Ex. W3. The learned counsel for the Respondent/Management had relied upon a judgement of the Supreme Court reported as 1969 11 LLJ 799 Between TATA ENGINEERING AND LOCOMOTIVE COMPANY LTD. and PRASAD (S.C.) AND ANOTHER

and has stated that as per the Supreme Court decision, the action of the management in this case against the Petitioner cannot be considered to be illegal. In the above cited case, the Supreme Court has held that *as per the Standing Orders of the Company inter alia enabling the employer to discharge a worker on giving notice amounts to simple termination of service and if it is satisfied that the order is punitive or mala fide or is made to victimise the workman, or amounts to unfair labour practice, it is competent to set aside. The test is whether the act of the employer is bona fide. If it is not, and is a colourable exercise of the power under the contract of service, or standing order, the Tribunal can discard it and in a proper case, direct reinstatement.* From the available records in this case, it is seen that the action of the Respondent/Management in passing an order as per the provisions of clause 31(vi) IAAI General Conditions of Service Regulations, 1980 is not a mala fide one or can be considered as an action taken by the Respondent/Management to victimise the workman. In this case, the Respondent/Management had acted under the IAAI General Conditions of Service Regulations, 1980 without holding a domestic enquiry by way of taking disciplinary action against the Petitioner. As held by the Supreme Court in the above cited case, that the management exercised its power under the General Conditions of Service Regulations, 1980 cannot render the order mala fide or one passed in colourable exercise of its power to discharge the workman from service, since such power was properly exercised. So, from all these available materials both oral and documentary in this case and on the basis of the arguments advanced by the learned counsel for the Respondent/Management, it can be easily concluded that the claim of the Petitioner that the action of the Respondent/Management in terminating him from service is illegal and not justified cannot be accepted. On the other hand, there is abundant materials available in this case, enabling this Tribunal to come to the conclusion that the action of the Respondent/Management against the Petitioner/Workman in removing his name from the rolls of the Respondent following the General Conditions of Service Regulations is legal and justified. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the concerned workman Sri S. Premkumar is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th November, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined:-

For the I Party/Workman : WWI Sri S. Premkumar

For the II Party/Management : MWI Smt. R. Latha

Documents Exhibited:-

For the I Party/Workman:—

Ex.No.	Date	Description
W1	24.12.75	Xerox copy of the appointment order issued by Respondent/Management to Petitioner.
W2	08.10.90	Xerox copy of the promotion order issued by the Respondent to the Petitioner.
W3	14.08.97	Xerox copy of the dismissal order passed by the Respondent/Management against the Petitioner.
W4	31.10.96	Xerox copy of the medical report submitted by the Petitioner.
W5	17.02.97	Xerox copy of the medical report submitted by the Petitioner.
W6	18.02.97	Xerox copy of the bio-chemical report submitted by the Petitioner.
W7	30.08.97	Xerox copy of the representation submitted by the Petitioner to Respondent/Management.
W8	24.09.97	Xerox copy of the representation submitted by the Petitioner to Respondent along with postal receipt.

For the II Party/Management:—

Ex.No.	Date	Description
M1	04.02.97	Xerox copy of the memo issued to the Petitioner by Respondent to the Petitioner directing him to join duty.
M2	25.03.97	Xerox copy of the memo issued to Petitioner by Respondent to produce evidence.
M3	26.03.97	Returned Postal cover with acknowledgement card sent to Petitioner with postal endorsement "refused".
M4	25.03.97	Extract of entry dt. 25.3.97 in Despatch Register of the Respondent for having despatched the memo by RPAD.
M5	29.05.97	Xerox copy of the memorandum issued by Respondent to Petitioner.
M6	29.05.97	Extract of entry dt. 25.9.97 from the Despatch Register of Respondent/Management for having sent the memo.
M7	04.07.97	Xerox copy of the show cause notice issued to Petitioner.
M8	07.07.97	Extract of entry dt. 7.7.97 in Despatch Register of the Respondent for having sent the memo.
M9	26.02.97	Xerox copy of the office note of Assistant Director (Fire) to Deputy General Manager (Personnel) of Respondent.
M10	07-07-97	Xerox copy of the postal counterfoil for the articles sent by Post.

नई दिल्ली, 17 जनवरी, 2003

का. आ. 552.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय भीलवाड़ा के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-2003 को प्राप्त हुआ था।

[सं. एल-40012/70/2001-आई. आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 17th January, 2003

S.O. 552.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal/Labour Court, Bhilwanra as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of D/o Post and their workman, which was received by the Central Government on 17-1-2003.

[No. L-40012/70/2001-IR (DU)]

KULDIP RAI VERMA, Desk Officer

अनुबन्ध

श्रम न्यायालय, भीलवाड़ा (राजस्थान),

श्रम विवाद प्रकरण संख्या : 139/2001

विवाद मध्य :

श्री अशोक कुमार, जीनगर पुत्र श्री भवानी राम

जीनगर, पंचायत समिति के पास, मांडल जिला

भीलवाड़ा

.....प्रार्थी/कामगार

एवं

सब कार्ड, आफिसर, आर. एम. एस. जे. डिवीजन डाक विभाग, भीलवाड़ा

.....विपक्षी/नियोजक

उपस्थित :

श्री महेश चन्द्र पुरोहित, आर. एच. जे. एस. न्यायाधीश

प्रार्थी की ओर से : श्री आर. एस. सोढाणो, अधिवक्ता।

विपक्षी की ओर से : श्री ए. के. व्यास, अधिवक्ता।

पंचाट

दिनांक 27-11-2002

भारत सरकार के श्रम मंत्रालय की ओर से अधिसूचना संख्या : एल-40012/70/2001 दिनांक 30-5-2001 के द्वारा निम्न विवाद इस न्यायालय को न्याय निर्णयन के लिए प्रेषित किया गया :—

“Whether the action of Sub Record Officer, RMS J Division, Department of Post, Bhilwara in terminating the services of Shri Ashok Kumar Jingar, Ex extra departmental mailman w.e.f. 5-9-2000 is legal and justified? If not what relief the concerned workman is entitled to?”

प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम प्रस्तुत कर प्रकट किया गया कि उसकी नियुक्ति ई. डी. मेल मैन के पद पर कार्यालय आर. एम. एस., भीलवाड़ा में दिनांक 18-10-97 को हुई थी। उसकी नियुक्ति नियोजन कार्यालय के माध्यम से आये अभ्यर्थियों के साक्षात्कार के बाद विधिवत चयन प्रक्रिया से हुई थी। विपक्षी ने उसे बिना किसी समुचित कारण के दिनांक 5-9-2000 को सेवा पृथक कर दिया। सेवा समाप्ति के पूर्व उसे मात्र एक माह का नोटिस वेतन देने की पेशकश की, परंतु भुगतान नहीं किया और न छंटनी मुआवजा दिया। इस प्रकार उसे सेवा पृथक करना धारा 25-एफ एवं जी का उल्लंघन है। प्रार्थी कामगार ने समस्त वेतन एवं परिलाभों सहित पुनः पूर्व पद पर नियोजित करवाने की प्रार्थना की। विपक्षी नियोजक की ओर से जवाब प्रस्तुत कर प्रकट किया गया कि प्रार्थी द्वारा दी गई सेवाएं ई. डी. मेल मैन के पद पर दिया जाना स्वयं प्रार्थी ने दर्शित किया है और उक्त वर्णित पद पर 3 वर्ष अथवा उससे अधिक की सेवा अवधि पार करने वाले कामगार ही औद्योगिक विवाद अधि. के तहत वाद प्रस्तुत करने का हकदार होता है। प्रार्थी की नियुक्ति नितांत अस्थायी तौर पर दी गई थी इसलिए उसे श्रम विधि का संरक्षण प्राप्त नहीं होता है। यह प्रकरण “केट” के श्रवणाधिकार का है। प्रार्थी के नियुक्ति पत्र में ही यह स्पष्ट कर दिया गया था कि उसकी सेवाएं किसी भी समय समाप्त की जा सकती हैं। उसकी नियुक्ति संविदा के आधार पर की गई थी। उसकी नियुक्ति मात्र 5 घंटे की सेवा लेने तथा अंशकालीन तौर पर की गई थी। प्रार्थी ने 3 वर्ष तक नियमित एवं संतोषप्रद सेवाएं नहीं दी। उसकी सेवा 3 वर्ष से कुछ कम थी। कानून के अनुसार प्रार्थी को एक माह का नोटिस वेतन टेंडर किया गया किंतु उसने उक्त नोटिस वेतन लेने से मना कर दिया। इसके बाद धनादेश से उक्त राशि प्रेषित की किंतु वह दिये गये पते पर पोस्टमैन को उपलब्ध नहीं हुआ इस कारण पोस्टमैन ने “बार-बार जाने पर भी लेने वाला उपलब्ध नहीं” पृष्ठांकन कर धनादेश वापस लौटाया। प्रार्थी को छंटनी मुआवजा अथवा अन्य कोई लाभ देय नहीं है। प्रार्थी का स्टेटमेंट आफ क्लेम निरस्त करने को प्रार्थना की गई।

प्रार्थी की ओर से साक्ष्य में स्वयं प्रार्थी अशोक कुमार का शपथपत्र प्रस्तुत किया गया, जिसके खंडन में विपक्षी की ओर से बी.एल. मेहरा का शपथपत्र प्रस्तुत किया गया। दोनों पक्षों द्वारा एक दूसरे के शपथपत्रों पर जिरह की गई।

बहस सुनी गई। पत्रावली का अवलोकन किया गया।

अब यह देखना है कि क्या अशोक कुमार को दिनांक 5-9-2000 का उचित एवं वैधरूप से सेवा पृथक किया गया है अथवा नहीं ?

प्रार्थी की ओर से प्रार्थी अशोक कुमार का शपथ पत्र प्रस्तुत हुआ है जिसमें बताया गया है कि उसका नियुक्ति पत्र प्रदर्श 1 है। दिनांक 5-9-2000 को सेवा पृथक करने का आदेश प्रदर्श 2 है। समझौता

अधिकारी के समक्ष आवेदन प्रस्तुत किया था, जो प्रदर्श 3 है। जवाब प्रस्तुत हुआ वह प्रदर्श 4 है। समझौता अधिकारी के समक्ष स्थिति स्पष्ट की जो प्रदर्श 5 है। असफल वार्ता प्रतिवेदन प्रदर्श 6 है। इसका प्रतिपरीक्षा में कथन है कि यह सही है कि उसे इ.डी. मैन के पद पर रखा था। उसको नियुक्ति की अवधि 3 वर्ष से एक माह कम थी। यह सही है कि उसे बकाया वेतन प्रस्तुत किया था, लेकिन लेने से इनकार कर दिया। उसे प्रदर्श एम. 1 के जरिये राशि "आफर" की थी। प्रदर्श एम. 2 पर ए से बी उसके हस्ताक्षर हैं। प्रदर्श एम. 3 मनी आर्डर उसके घर पर आया था, लेकिन वह घर पर नहीं था और इसकी जानकारी उसे बाद में मिली थी। प्रदर्श एम. 4 पर ए से बी मार्क उसके सामने लिखा गया जो सही है। प्रदर्श एम. 5 की जानकारी उसे नहीं है।

विपक्षी का गवाह बी.एल. मेहरा का शपथ पत्र है कि प्रार्थी को नियुक्ति इ.डी. मेलमैन के पद पर 18-10-97 को हुई थी। प्रार्थी का नाम नियोजन कार्यालय से मांगा था। नियुक्ति संविदा के आधार पर थी। नियुक्ति नितांत अस्थायी तौर पर अंश कालीन तौर पर थी। प्रार्थी को कानून के अनुसार एक माह का नोटिस वेतन टेंडर किया गया था लेकिन उसने लेने से इनकार कर दिया। तत्पश्चात् उसे जरिये मनीआर्डर धनराशि प्रेषित की गई थी किंतु वह अपनी नौकरी प्राप्त करते समय दिये गये पते पर पोस्टमैन के द्वारा बार-बार जाने पर भी उपलब्ध नहीं हुआ। यह पृष्ठांकन कर मनीआर्डर वापस लौटा। प्रतिपरीक्षा में इसका कथन है कि 18-10-97 को वह अधीक्षक के पद पर जयपुर में नियुक्त था। प्रार्थी का नियुक्ति पत्र प्रदर्श 1 सही है।

वकील प्रार्थी का कथन है कि प्रार्थी के विरुद्ध बिना किसी जांच किये उसे सेवा पृथक किया गया है। उसे सुनवाई का अवसर भी नहीं दिया गया है। अतः वह पुनः सेवा में पदस्थापित होने का अधिकारी है। इसके विपरीत वकील विपक्षी का कथन है कि प्रार्थी की नियुक्ति पोस्ट एंड टेलीग्राफ एक्स्ट्रा डिपार्टमेंटल एजेन्ट्स (कंडेक्ट एंड सर्विस) रूल्स 1964 के अंतर्गत हुई है। नियम 6 (बी) की पालना करते हुए सेवा से पृथक किया है। अतः प्रार्थी का विवाद चलने योग्य नहीं है। उन्होंने इसके बारे में आर.एल.आर. 2000 (3) पेज 436 महेन्द्रसिंह विरुद्ध सेंट्रल एडमिनीस्ट्रेशन ट्रिब्यूनल व अन्य का दृष्टांत पेश किया। इस दृष्टांत के तथ्य इस प्रकार हैं कि याची को एक्स्ट्रा डिपार्टमेंटल मेल केरियर के पद पर चयन कर दिनांक 13-1-97 को आदेश जारी किया। याची की दिनांक 18-11-97 को बिना किसी कारण धारा 6 (बी) के अंतर्गत एक माह का वेतन देते हुए तुरंत प्रभाव से सेवाएं समाप्त कर दी गई। इस पर सेंट्रल एडमिनीस्ट्रेशन ट्रिब्यूनल, जयपुर बेंच, जयपुर द्वारा दिनांक 5-12-97 को सेवा समाप्ति का आदेश निरस्त करते हुए सभी अनुसंगिक लाभ दिलाने का आदेश पारित किया, जिस पर माननीय राज. उच्च न्यायालय में याचिका हुई एवं जिसमें यह अधिनिर्णीत किया गया कि याची ने 3 वर्ष लगातार सेवाएं नहीं की हैं। उसकी सेवा की प्रकृति संविदा के आधार पर है। अतः नियम 6 (बी) के तहत बिना किसी कारण बताये व बिना सुनवाई किये सेवा पृथक किया जा सकता है। यहां पर विपक्षी का स्पष्ट रूप से जवाब है कि प्रार्थी की नियुक्ति संविदा के आधार पर की गई थी। प्रदर्श 1

नियुक्ति आदेश में भी स्पष्ट है कि नियुक्ति संविदा के आधार पर की गई थी। नियुक्ति दिनांक 18-10-97 को की गई थी सेवा मुक्ति दिनांक 5-9-2000 को की गई थी। याने 3 वर्ष से कम अवधि में सेवा मुक्ति की गई है जिसे प्रार्थी भी प्रतिपरीक्षा में स्वीकार करता है। नियम 6(ए) में बताया गया है कि यदि किसी कर्मचारी ने 3 वर्ष से ज्यादा लगातार सेवाएं नहीं की हैं तो उसे कभी भी नियोक्ता द्वारा लिखित में नोटिस देकर सेवा मुक्त किया जा सकता है। धारा 6 (बी) में बताया गया है कि नोटिस की अवधि एक माह होगी। इसके परंतुक में बताया गया है कि कर्मचारी की सेवाएं नोटिस के बदले एक माह का वेतन देकर तुरंत प्रभाव से भी समाप्त की जा सकती है। यहां पर यह निर्विवाद है कि प्रार्थी की सेवाएं 3 वर्ष से कम हैं। प्रार्थी ने प्रतिपरीक्षा में यह भी स्वीकार किया है कि यह सही है कि उसे बकाया वेतन प्रस्तुत किया था, लेकिन लेने से इनकार कर दिया। प्रदर्श एम. 1 की राशि आफर की थी। प्रदर्श एम. 1 राशि बाबत है। प्रदर्श एम. 2 पर ए से बी हस्ताक्षर प्रार्थी के हैं जिसमें 5-9-80 का ज्ञापन प्राप्त होना माना है। प्रदर्श एम. 3 मनीआर्डर भी घर पर आना स्वीकार किया है। प्रदर्श एम. 4 में ए से बी इबारत स्वीकार की है, जिसमें कर्मचारी ने हस्ताक्षर करने से मना करना बताया है। यह एक माह की वेतन राशि प्राप्त करने व दिनांक 5-9-2000 से अपने आप को कार्य से मुक्त समझने बाबत है। प्रदर्श एम. 5 नौकरी से हटाये जाने के बाबत है। इस प्रकार नोटिस के बदले वेतन राशि विपक्षी द्वारा प्रार्थी को प्रेषित की गई थी किंतु प्रार्थी ने नहीं ली। यहां पर प्रार्थी की सेवाएं संविदा के आधार पर ही धारा 6(बी) की पूर्ण रूप से पालना कर समाप्त की गई है। अतः प्रार्थी को सेवा पृथक किया जाना उचित एवं वैध है। प्रार्थी कोई राहत पाने का अधिकारी नहीं है।

अतः प्रासंगिक विवाद का उत्तर इस प्रकार दिया जाता है कि
"The reference is answered as :—

The action of Sub Record Officer, RMS J Division Department of Post, Bhitwara in terminating the services of Shri Ashok Kumar Jinger, Ex extra departmental mailman w.e.f. 5-9-2000 is legal and justified. The workman is not entitled any relief."

पंचाट की प्रति भारत सरकार के श्रम मंत्रालय को भेजी जाये।

महेश चन्द्र पुरोहित, न्यायाधीश.

नई दिल्ली, 27 जनवरी, 2003

का. आ. 553.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन क्षेत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलम के पंचाट (संदर्भ संख्या आई डी सं. 3/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-1-2003 को प्राप्त हुआ था।

[सं. एल-40011/6/96-आई. आर.(डी.यू.)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 27th January, 2003

S.O. 553.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central

Government Industrial Tribunal, Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Deptt. of Posts and their workman, which was received by the Central Government on 23-1-2003.

[No. L-40011/6/96-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**IN THE COURT OF THE INDUSTRIAL TRIBUNAL,
KOLLAM**

(DATED, THIS THE 2ND DAY OF JANUARY, 2003)

PRESENT:

**SRI C. N. SASIDHARAN
INDUSTRIAL TRIBUNAL**

IN

INDUSTRIAL DISPUTE NO. 3/98

BETWEEN

The Chief Post Master General, Kerala Circle, PMG
Junction, Trivandrum.

Management

(By Sri. G. S. Prakash, Advocate, Trivandrum)

AND

The Circle Secretary, National Federation of Post &
Telegraph Employees, P&T House, Pulimood, Trivandrum.

Union

(By Sri M.S. Vijayachandra Babu, Advocate, Trivandrum)

AWARD

The Government of India, as per Order No. L-40011/6/96-IR (DU) dated 28-1-1998, have referred this industrial dispute to this Tribunal for adjudication:

The issue for adjudication is the following:

“Whether the action of the management of Chief Post Master General (Kerala). Trivandrum in unilaterally implementing a new scheme in place of batch delivery system of postal articles w.e.f. 4-4-96 is justified? And whether the demands of the unions to defer the new scheme for at least a month and to restore status quo-ante as on 3-4-1996 are reasonable? If not, to what remedy the workmen are entitled?”

2. On 24-12-2002, when this case was taken up, counsel on both sides submitted that the dispute has been settled between the parties. A photocopy of the minutes of the meeting of the Chief Post Master General with the service union representatives regarding restructuring of delivery system held on 13-11-2002 has been produced and marked as Ext. C1. The issue relating to restructuring of delivery system, which was in dispute between the

parties, has been settled as per Ext. C1 which is signed by the Chief Post Master General and the representatives of unions. As requested by the parties I accept Ext. C1 and hold that no Industrial dispute exists between the parties for adjudication.

An award is passed accordingly.

C.N. SASIDHARAN, Industrial Tribunal

APPENDIX

Ext. C1. Photostat copy of the minutes of the Chief Post Master General dated 13-11-2002.

नई दिल्ली, 27 जनवरी, 2003

का. आ. 554.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जोधपुर के पंचाट (संदर्भ संख्या औ.वि. (केन्द्रीय) सं. 12/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-01-2003 को प्राप्त हुआ था।

[सं. एल-40012/68/96-आई. आर. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 27th January, 2003

S.O. 554.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of D/o Telecom., and their workman, which was received by the Central Government on 23-01-2003.

[No. L-40012/68/96-IR(D.U.)]

KULDIP RAI VERMA, Desk Officer

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय

जोधपुर

पीठासीन अधिकारी:- श्रीमति निशा गुप्ता, आर.एच. जे. एस.

औ. वि. (केन्द्रीय) सं. 12/2000

पुष्पाज सैन पुत्र श्री मोहनकिशन जी जाति सैन निवासी मोती चौक,
जोधपुर।

... प्राथी

बनाम

1. सब डिबीजनल अधिकारी फोन्स-II जोधपुर

2. टेलीकॉम डिस्ट्रीक्ट मैनेजर, र. र. जोधपुर।

प

उपस्थिति :—

- (1) प्रार्थी की ओर से श्री डी. के चौहान प्रतिनिधि उप०
- (2) अप्रार्थी की ओर से श्री टी. आर. विश्णोई प्रतिनिधि उप०

अधिनिर्णय

दिनांक 3-12-2002

भारत सरकार के श्रम मंत्रालय नई दिल्ली ने अपनी अधिसूचना क्रमांक एल. 40012/68/96-आई. आर. (डी. यू. दिनांक 23-12-99 से निम्न विवाद वास्ते अधिनिर्णय इस न्यायालय को प्रेषित किया है :—

“Whether the action of the management of the Sub- Divisional Officer Phones-II Jodhpur in terminating the services of Sh. Pukh Raj Sen w.e.f 31-12-84 is legal and justified? If not, to what relief the workman is entitled?”

उक्त रेफ्रेन्स इस न्यायालय में प्राप्त होने पर दर्ज रजिस्टर्ड किया जाकर पक्षकारों को जरिये नोटिस आहूत किया गया। प्रार्थी ने अपना मांग-पत्र प्रस्तुत करते हुए अभिकथित किया कि उसकी नियुक्ति अप्रार्थी सं० 1 के अधीन दैनिक वेतन भोगी श्रमिक के रूप में माह अक्टूबर 1983 में हुई वह दिसम्बर, 1984 तक कार्यरत रहा तथा निरन्तर सेवा में रहा, प्रार्थी की हाजरी अप्रार्थी सं० 1 द्वारा दर्ज की जाती थी, प्रार्थी ने सेवा समाप्ति से पूर्व के एक कलेण्डर वर्ष में लगातार 240 दिनों से अधिक दिवसों तक कार्य किया लेकिन अप्रार्थी द्वारा 31-12-1984 को प्रार्थी की सेवाएं समाप्त कर दी, सेवा समाप्ति से पूर्व प्रार्थी को छंटनी का मुआवजा नहीं दिया, सेवा समाप्ति आदेश के समय यह आश्वासन अवश्य दिया गया कि उसे शीघ्र ही पुनः सेवा में ले लिया जायेगा किन्तु सेवा समाप्ति के पश्चात् निरन्तर आग्रह के बावजूद प्रार्थी को सेवा में नहीं लिया गया है, सेवा समाप्ति के पश्चात् प्रार्थी आज तक बेरोजगार है। प्रार्थी का यह कथन है कि उसे सेवा से पृथक् करने के पश्चात् अप्रार्थी ने कई नये श्रमिकों को सेवा में नियोजित किया लेकिन उसे पुनः सेवा में नहीं लिया। प्रार्थी अक्टूबर, 1983 से दिसम्बर, 1984 तक अप्रार्थी के अधीन कार्यरत रहा है। प्रार्थी कम पढ़ा-लिखा व गरीब तथा पिछड़ी जाति का सदस्य है जिसके द्वारा सेवा समाप्ति की अवैधानिक व अनुचित कार्यवाही के विरुद्ध शीघ्र कार्यवाही करना सम्भव नहीं था, आर्थिक विषमताओं के कारण उसके द्वारा उचित कार्यवाही नहीं की जा सकी। यह भी कहा है कि सेवा समाप्ति से पूर्व अप्रार्थी द्वारा वरिष्ठता सूची प्रकाशित नहीं की गई, अप्रार्थी द्वारा धारा 25-एफ औ० वि० अधिनियम के आज्ञात्मक प्रावधानों की अवहेलना की गई है, प्रार्थी से कनिष्ठ कर्मचारियों को सेवा में बनाये रखा अतः धारा 25-जी की अवहेलना की गई है। यह भी कहा है कि प्रार्थी से कनिष्ठ सर्व श्री रामचन्द्र, सोहनलाल, शमशुदीन, ब्रह्मानन्द व ईश्वर सिंह आज भी अप्रार्थी के अधीन कार्यरत हैं, ब्रह्मानन्द व कुछ अन्य कर्मचारियों को धारा 25-एच का लाभ देकर पुनः सेवा में लिया गया अतः प्रार्थी के मामले में भेदभाव का रुख अपनाया जाना असंवैधानिक है। अन्त में निवेदन किया है कि उसकी सेवाएं धारा 25-एफ औ० वि० अधिनियम के विपरीत समाप्त की गई उसे एक माह का नोटिस

क्षतिपूर्ति राशि का भुगतान नहीं करने के कारण सेवा समाप्ति पूर्णतया अनुचित एवं अवैध है अतः उसे सेवा की निरन्तरता में पूर्ण पूर्व भूति सहित सेवा में पुनर्स्थापित किये जाने का आदेश पारित किया जावे।

अप्रार्थी की ओर से जवाब प्रस्तुत करते हुए कहा गया है कि प्रार्थी ने अप्रार्थी के अधीन अक्टूबर, 1983 से दिसम्बर, 1983 तक 67 दिन कार्य किया उसके बाद मजदूर की आवश्यकता नहीं होने से कुछ दिन कार्य नहीं किया तथा बाद में आवश्यकता होने पर जनवरी 1984 से नवम्बर 84 तक कार्य किया। विभाग में नया केबल कार्य आने पर प्रार्थी को 30-10-85 को सूचना दी लेकिन बावजूद सूचना जब प्रार्थी विभाग में मजदूरी करने के लिए नहीं आया तो विभाग द्वारा उसे 7-1-86 को रजिस्टर्ड-पत्र के जरिये सूचना दी लेकिन प्रार्थी उपस्थित नहीं हुआ, प्रार्थी स्वयं मजदूरी के लिये अपनी इच्छा से नहीं आया। प्रार्थी को न तो सेवा में लेने का आदेश दिया था तथा न ही उसकी सेवा समाप्त की गई प्रार्थी ने विभाग में कार्य होने पर मजदूर के रूप में कार्य किया जिसको मजदूरी का भुगतान किया जा चुका है। प्रार्थी ने 11 साल बाद प्रार्थना-पत्र पेश किया है जो निरस्त किये जाने योग्य है, प्रार्थी अन्य जगह मजदूरी कर रहा है इसलिए वह विभाग द्वारा बुलाने पर भी उपस्थित नहीं हुआ, विभाग द्वारा धारा 25-एफ के प्रावधानों की अवहेलना नहीं की गई। प्रार्थी ने अप्रार्थी विभाग में एक मजदूर के रूप में आकस्मिक कार्य होने पर कार्य किया, जिसमें उसे किसी प्रकार की कोई नियुक्ति नहीं दी गई, ऐसी स्थिति में प्रार्थी को किसी प्रकार से एक माह पूर्व नोटिस दिये जाने की आवश्यकता नहीं थी। विभाग में दिनांक 30-3-85 से नियमित नियुक्ति पर प्रतिबन्ध लगा दिया गया, केज्युअल, आकस्मिक मजदूरों की कोई वरियता सूची नहीं बनाई जाती है अन्त में निवेदन किया है कि प्रार्थी का मांग-पत्र सव्यय खारिज किया जावे।

प्रार्थी ने अपने मांग-पत्र के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया जिस पर अप्रार्थी प्रतिनिधि द्वारा जिरह की गई तथा अप्रार्थी की ओर से श्री मुशताक अहमद उपमण्डल अधिकारी का शपथ-पत्र प्रस्तुत किया जिस पर प्रार्थी प्रतिनिधि द्वारा जिरह की गई। प्रार्थी व अप्रार्थी की ओर से विभिन्न दस्तावेजात की फोटो प्रतियां पेश की गईं।

दोनों पक्षों के प्रतिनिधिगण की बहस सुनी, पत्रावली का अवलोकन किया।

प्रार्थी द्वारा यह कहा गया कि उसने अक्टूबर, 1983 से दिसम्बर 1984 तक विपक्षी के वहाँ काम किया परन्तु उसे बिना कारण हटा दिया गया, उसकी सेवा समाप्ति अनुचित है अतः सेवामुक्ति के आदेश को निरस्त किया जावे। विपक्षी द्वारा यह कहा गया है कि प्रार्थी ने उनके वहाँ कुछ ही दिन कार्य किया है उसे 7-1-86 को रजिस्टर्ड पत्र द्वारा उपस्थिति के लिए बुलाया गया लेकिन वह उपस्थित नहीं हुआ और 11 वर्ष बाद प्रार्थना-पत्र पेश किया गया है।

प्रार्थी द्वारा अपने शपथ-पत्र में भी इन्हीं तथ्यों का उल्लेख किया गया है स्वयं विपक्षी की ओर से प्रस्तुत साक्षी मुशताक अहमद उपमण्डल अधिकारी ने यह स्वीकार किया है कि प्रार्थी ने उनके वहाँ सेवा समाप्ति से पूर्व एक वर्ष में 240 दिन काम किया था और अक्टूबर, 1983 में इसे नियुक्ति दी थी, 31-12-84 को उसकी सेवाएं समाप्त हुईं

थी। इस संबंध में पुखराज की उपस्थिति का विवरण पेश हुआ है उसमें भी अक्टूबर 1983 से नवम्बर 1984 तक प्रार्थी ने 346 दिन काम किया है और श्रमिकों की जो सूची संलग्न-4 बनाई गई उसमें भी प्रार्थी की 346 दिन की उपस्थिति दिखाई गई है। इन दस्तावेजात पर कोई विवाद नहीं है, दोनों पक्षों ने ही इनको पेश किया है। समझौता अधिकारी के समक्ष भी विपक्षी ने यह स्वीकार किया है कि प्रार्थी ने उनके यहाँ अक्टूबर, 1983 से नवम्बर, 1984 तक काम किया है। इस प्रकार यह स्थिति साबित है कि प्रार्थी ने विपक्षी के यहाँ सेवा समाप्ति से पूर्व के एक कलेण्डर वर्ष में 240 दिन से अधिक काम किया लेकिन प्रार्थी को नोटिस, छंटनी का मुआवजा और नोटिस वेतन नहीं दिया गया।

विपक्षी का यह कथन है कि प्रार्थी को काम पर रखने के लिए पुनः बुलाया गया लेकिन वह उपस्थित नहीं हुआ था। इस संबंध में 7-1-86 का रजिस्टर्ड ए.डी. पत्र पेश हुआ है परन्तु इसकी ए.डी. पर ही यह स्पष्ट रिपोर्ट है कि यह व्यक्ति नहीं मिलता, ऐसी स्थिति में इस बात की सूचना प्रार्थी को हुई हो, यह स्थिति साबित नहीं है। इसी क्रम में 30-10-85 का पत्र भी पेश हुआ है जिस पर पुखराज सैन के दस्तखत होने बताये गये हैं परन्तु इस संबंध में पुखराज से प्रतिपरीक्षा में कोई प्रश्न नहीं पूछा गया है और पुखराज स्वयं का यह कथन है कि उसे कोई पत्र नहीं मिला। इस प्रकार काम पर आने की सूचना प्रार्थी को प्राप्त हुई हो, यह स्थिति साबित नहीं है।

इस प्रकार उपरोक्त विवेचन से यह स्थिति स्पष्ट है कि प्रार्थी को सेवामुक्ति से पूर्व औद्योगिक विवाद अधिनियम के आदेशात्मक प्रावधानों की पालना नहीं की गई है जब कि प्रार्थी ने विपक्षी के यहाँ 240 दिन से अधिक काम किया था।

विपक्षी की यह आपत्ति है कि प्रार्थी को वर्ष 1984 में हटाया गया जब कि प्रस्तुत विवाद सर्वप्रथम 1995 में 11 वर्ष पश्चात् उठाया गया है। यह स्थिति सही है परन्तु केवल देरी के आधार पर प्रार्थी को अनुतोष से इन्कार नहीं किया जा सकता। इस संबंध में प्रार्थी की ओर से रिट पिटीशन नं० 2091/2000 स्पेशल अपील नं० 224/2000 व रिट पिटीशन नं० 3836/89 के माननीय उच्च न्यायालय के निर्णय पेश हुए हैं जिसमें देरी के आधार पर अनुतोष की संशोधित किया गया है। प्रार्थी द्वारा अपने समर्थन में डब्ल्यू. एल. एन. 2002 (2) पेज 167 सवाईमाधेपुर एवं टोंक जिला दुग्ध उत्पादक सहकारी संघ लि० बनाम ओमप्रकाश शर्मा का विनिश्चय पेश किया। यह सही है कि केवल देरी के आधार पर अनुतोष से इन्कार नहीं किया जा सकता और देरी को देखते हुए यह उचित होगा कि प्रार्थी को पिछला वेतन-भत्ता न दिलाया जावे। इस प्रकार प्रार्थी की सेवामुक्ति अनुचित व अवैध है, लेकिन देरी को देखते हुए प्रार्थी पिछला वेतन-भत्ता प्राप्त करने का अधिकारी नहीं है। समस्त तथ्यों एवं परिस्थितियों को देखते हुए प्रार्थी का रेफरेन्स की तिथि 23-12-99 से सेवा में पुनर्स्थापित किये जाने तक की अवधि का 50 प्रतिशत वेतन प्राप्त करेगा।

अधिनिर्णय

अतः यह अधिनिर्णीत किया जाता है कि सब डिवाइजनल ऑफिसर फोन्स-11, जोधपुर द्वारा श्री पुखराज सैन का 31-12-1984 से सेवामुक्ति करना अनुचित एवं अवैध है। अतः आदेशित किया जाता है कि अप्रार्थी नियोजक प्रार्थी को तुरन्त सेवा में पुनर्स्थापित करे, प्रार्थी की सेवाएँ

निरन्तर मानी जावेगी, प्रार्थी रेफरेन्स की तिथि 23-12-99 से आदेश की पालना तक 50 प्रतिशत राशि पूर्व भूति के रूप में प्राप्त करेगा।

इस अधिनिर्णय को प्रकाशनार्थ श्रम मंत्रालय भारत सरकार नई दिल्ली को प्रेषित किया जावे।

यह अधिनिर्णय आज दिनांक 03-12-2002 को खुले न्यायालय में हस्ताक्षर कर सुनाया गया।

निशा गुप्ता, न्यायाधीश

नई दिल्ली, 28 जनवरी, 2003

का. आ. 555.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं० 2 धनबाद के पंचाट (संदर्भ संख्या 162/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-01-2003 को प्राप्त हुआ था।

[सं. एल-40012/89/98-आई आर (डो०क्यू)]

कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 28th January, 2003

S.O. 555—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 162/99) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Sr. Supdt. G.P.O. Bihar circle, Patna, and their workman, which was received by the Central Government on 24-01-2003.

[No. L-40012/89/98-IR (D.U.)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 162/99

PARTIES: Employers in relation to the management of the Sr. Superintendent G. P. O. Bihar circle, Patna and their workman.

APPEARANCES:

On behalf of the workman : Shri D. K. Verma Advocate

On behalf of the employers : None

State : Jharkhand

Industry: Post and Telegraph.

Dated, Dhanbad, the 31st December, 2002.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-40012/89/98/IR(DU) dated, the 16th March, 1999.

SCHEDULE

"Whether the termination of services of the workman Sh. Sudhir Pandit by the management of G.P.O. Post Offices, Doranda, Ranchi is legal and justified? If not, to what relief the workman is entitled?"

2. The case of the concerned workman according to the W.S. in brief is as follows:—

The concerned workman submitted that he was engaged as daily rated casual Mazdoor performing the work of regular and perennial nature such as stamping of letter, collection of speed post articles at Doranda Post Office. He was engaged for the said job by the management with effect from 29-11-94 @ Rs.25 per day as his wages and worked there upto 31-12-96 i.e. for a period of 25 months. He alleged that the management without assigning any notice or without assigning any reason terminated his service by an oral order with effect from 1-1-97 illegally, arbitrarily and violating the principles of natural justice. He further disclosed that his termination from service is also discriminatory in view of the fact that another workman Sudhir Pandit junior to him had been retained in service and he was given temporary status and minimum wages of Grade-IV in Cat D. He alleged that one workman Lal Mohan Pandit who was originally engaged as casual mazdoor like that of him was regularised in his service and thereafter in his place his brother Subhash Pandit was taken as casual mazdoor just to favour him. He disclosed that though he himself and Subhash Pandit started working under the management as unskilled Mazdoor the management without any valid reason though provided employment to Sudhir Pandit, terminated his service without assigning any reason. After termination of his service he submitted that he approached to different authorities including the Chief Post Master General for his reinstatement. The Chief Post Master General after considering his prayer directed the Director Postal Services, Ranchi vide his Order dt. 31-8-97 to consider the case of the concerned workman in his favour with report of compliance of the said decision but in spite of giving specific direction the Director of Postal Services, Ranchi did not comply the order of the Chief Post Master General. Under the facts and circumstances he raised an industrial dispute for conciliation which ultimately resulted reference to this Tribunal for Award. The concerned workman accordingly has submitted his prayer to pass as Award directing the management to reinstate him in service with full back wages and other benefits.

3. The management on the contrary after filing W.S. - cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in his W.S. the management submitted that the concerned workman was not engaged as casual worker on regular basis against regular vacancy but he was engaged as daily rated Mazdoor at Doranda Headquarters during the year 1995 and 1996 by the Post Master, Doranda intermittently on day to day requirement. He was engaged continuously as casual labour during the period in question and as such his engagement is as daily rated Mazdoor when not required at Doranda Post Office but was terminated forthwith. They submitted that Subhash Pandit who has been working as daily rated mazdoor such before the engagement of the concerned workman as whole time sweeper and Pump Operator has not yet been given temporary status. They submitted further that Lal Mohan Pandit who was in continuous engagement for whole time contingent paid staff for more than 240 days each year before 1-9-93 was given temporary status vide Memo. No. A1-1/RLG/Gr.D daily wage/ CORR/ CHI dt. 1-12-95 keeping in view the verdict of the Apex Court and D.G. Post's New Delhi vide letter No. 45/95/87-SPB I dt. 12-4-91. They disclosed that Subhash Pandit was engaged as daily rated Mazdoor much before the engagement of the concerned workman and as such no favour was shown in the engagement of Subhash Pandit brother of Lal Mohan Pandit as casual labour daily rated Mazdoor. They further disclosed that they neither received any instruction from the higher authority nor from the Chief Post Master General, Patna in regard to the engagement of Sudhir Pandit in the Post Office. There is no scope to give wage as per submission of the concerned workman in this regard. They accordingly submitted that the claim of the concerned workman is baseless and for which he is not entitled to get any relief, according to his prayer.

4. The points to be decided in this reference are:—

"Whether the termination of services of the workman Sh. Sudhir Pandit by the management of G.P.O. Post Offices, Doranda, Ranchi is legal and justified? If not, to what relief the workman is entitled?"

DECISION WITH REASONS

5. It is seen from the record that in spite of giving several opportunities the management neither submitted any document nor adduced any evidence in order to substantiate their claim. Accordingly the instant reference case was taken up for ex parte hearing. In course of ex parte hearing the concerned workman was examined as a witness. The concerned workman during his evidence submitted that he worked as casual worker at Doranda Head Post Office from 29-11-94 to 31-12-96 and used to draw his wages @Rs.25 per day. He further disclosed that during this period he worked for more than 240 days in a year but in spite of rendering his continuous service he had been stopped from work by the management with effect from 1-1-97 without assigning any reason or without giving any notice

to him. Even the management did not pay any compensation to him. He disclosed that during his service there he used to perform his duties from 8.00 A.M. to 4 P.M. every day and in course of his days work he used to collect his articles from the Mail Van and he used to despatch the same to registry branch. He also used to affix seal of the Post Office in the registry branch. He alleged that Subhash Pandit another casual workman though was junior to him was absorbed by the management ignoring his claim and seniority while illegally the management stopped him, from his work. During his evidence he relied on certain documents which were marked as Ext.W-1 to W-3 and W-9 series. There is no scope to assess the evidence of the management as they did not come forward. However, considering the W.S. submitted by them I find no dispute to hold that the concerned workman was engaged at Doranda Headquarters during the year 1995-1996. The management admitting this fact submitted that his engagement was intermittent in nature and dependent on day to day requirement. They also in their W.S. categorically denied the fact that the concerned workman was never engaged continuously as casual labour during the period in question. Admitting the engagement of Sudhir Pandit the management submitted that the said worker was senior to him and for which he has been allowed to work as daily rated Mazdoor though he has not been given with temporary status yet. When the concerned workman's specific claim is that his service as casual worker under the management was continuous in nature and he worked for more than 240 days in each year the contention of the management is that his engagement was intermittent in nature and he was provided with the job as daily rated mazdoor and as and when the work was available. The concerned workman in course of his evidence submitted a bunch of vouchers in support of his claim of work under the management continuously marked as Ext.W-9 series. Considering the vouchers there is little scope to say that the concerned workman was engaged as daily rated mazdoor intermittently when the work was available. Accordingly onus rests on the management to establish that the concerned workman did not work as casual worker regularly denying the vouchers which he relied on in course of his evidence. The concerned workman in course of his evidence relied on order issued by the Asstt. Director General (SPB-I) dated 9-8-96 marked as Ext. W-4. From this letter it transpires that the management decided to give temporary status to part time/full time casual labour recruited after 10-9-93 and upto 12-11-95 on satisfying other eligibility conditions. The concerned workman also relied on another order issued by the Chief Post Master General marked as Ext. W-5 in support of his claim. From this order it transpires that the concerned workman submitted representation to the Chief Post Master General dt. 9-7-97 and 8-9-97. On considering his representation the Chief Post Master General issued the order in favour of the concerned workman and directed D.P.S.(S) to issue

necessary order. The concerned workman also relied on another letter issued on behalf of Chief Post Master General dt. 6-9-97 marked as Ext. W-7 in support of his claim. It is the contention of the management as per written statement that no order was received from the Chief Post Master General in support of the claim of the concerned workman. The copies of the office order marked as Ext. W-4, W-5, and W-7 on the contrary definitely do not support the claim of the management. No evidence is forthcoming on the part of the management that all these documents marked as Ext.W-4 to W-7 are forged and manufactured by the concerned workman. Accordingly until and unless it is proved I find no sufficient reason to believe that the concerned workman submitted forged documents in order to substantiate his claim. It is also not believable that when the concerned workman received copies of the order the management did not receive the same. Accordingly the plea taken by the management cannot be relied upon.

6. It is the specific claim of the concerned workman that he worked under the management as a casual worker continuously for more than 240 days in each year from 29-11-94 to 31-12-96. The vouchers marked as Ext. W-9 series have definitely supported his claim. Naturally onus is on the management to establish that the vouchers which the concerned workman relied on are forged and manufactured. No document on the part of the management is forthcoming to show that the concerned workman was engaged as Mazdoor on daily rated basis intermittently and work was provided to him as and when the same was available. Apart from the order issued by the Asstt. Director General SPB-I for and on behalf of the Chief Post Master General the concerned workman has sufficiently established that he worked continuously under the management for more than 240 days in a year and he performed the job of casual worker. In course of his evidence he has also clearly mentioned the nature of duties which he had to perform. Accordingly issuance of notice under Section 25F of the I.D. Act was mandatory. But it is seen that the management violating the mandatory provision of law terminated the services of the concerned workman. In this connection the decisions reported in 2001 Lab I.C. 2220 Calcutta, 2001 Lab I.C. 224 Gujarat, 2001 Lab I.C. 2243 Delhi may be taken into consideration. In these decisions their Lordships of the Hon'ble Calcutta, Gujarat and Delhi High Courts observed that termination of services of workman without giving notice under Section 25F where the workman worked for more than 240 days is illegal and for which he is entitled to be reinstated. The management in their W.S. only denied the claim of the concerned workman but did not consider necessary to substantiate the claim by adducing cogent evidence. On the contrary the concerned workman by adducing sufficient evidence established that inspite of his continuous service for more than 240 days in a year he was terminated without any notice under Section 25F of the I.D. Act by the management. There is sufficient reason to believe that such termination

of service was illegal, improper and it violated the principles of natural justice. Accordingly I hold that the claim of the concerned workman for his reinstatement in service stand on cogent footing. The reference accordingly is answered against the management exparte. In the result, the following award is rendered :—

“The termination of services of the workman Shri Sudhir Pandit by the management of G.P.O. Post Offices, Doranda, Ranchi is not legal and justified. Consequently, the concerned workman Sudhir Pandit is entitled for reinstatement in his service.”

The management is directed to reinstate the concerned workman in his original position within three months from the date of publication of the Award in the Gazette of India.

B. BISWAS, Presiding Officer.

नई दिल्ली, 20 नवम्बर, 2002

का. आ. 556.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत पेट्रोलियम कार्पो. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-11-2002 को प्राप्त हुआ था।

[सं. एल-30011/27/89-आई. आर. (एम.)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th November, 2002

S.O. 556.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corp. Ltd. and their workman, which was received by the Central Government on 20-11-2002.

[No. L-30011/27/89-IR(M.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE SMT. N.J. SHELAT, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, (CENTRAL) AT
AHMEDABAD

Ref. (ITC) No. 48 of 1990.

Adjudication

Between

Bharat Petroleum Corporation, Bombay ... First party

Vs.

Rashtriya Mazdoor Union, Baroda. ... Second party

In the matter of the demand of regularisation of and

grant of permanency and other consequential benefits to the 16 workmen engaged on casual/contract basis at the Koyali Unit of first party Corporation.

Appearances : No one, for the first party.

Shri B.B. Thesia, learned representative for the second party.

AWARD

The above-mentioned industrial dispute between Bharat Petroleum Corporation, Bombay and the workmen employed under it has been referred for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Desk Officer, Govt. of India, Ministry of Labour, New Delhi's Order No. L-30011/27/89-IR (Misc.) dated 15-10-1990 to the Industrial Tribunal, Ahmedabad. Thereafter under an appropriate order it has been referred to this Tribunal for proper adjudication. The dispute pertains to the regularisation and grant of permanency of 16 workmen engaged on casual/contract basis as is mentioned in the order of reference.

The exact terms of reference is as under :

“Whether the demand of the Rashtriya Mazdoor Union, Baroda on the management of Bharat Petroleum Corpn. Ltd. for regularisation of and grant of permanency and other consequential benefits to the 16 workmen engaged on Casual/Contract basis at the management's Koyali Unit is justified. If so, to what relief are the workmen concerned entitled?”

2(a) The case of the second party is that workmen represented by the second party Unit are working since 10 to 14 years as helper/labourer; that they are regular, sincere, honest and their past records of services are clean and blotless; that their services are uninterrupted and continuous; that the workmen are performing identical work as done by the permanent class IV employees of first party.

2(b) It is further submitted by the second party Union that the permanent employees doing similar work are paid handsome salary of more than Rs. 1500/- p.m. and attractive perks such as bonus (20%), full medical reimbursement for self and family members, Leave travel concession for self and family members, uniform etc.; that the workmen covered by this dispute are paid only minimum wages which comes to Rs. 24/- per day approximately and 15 P.L. per annum; that they are entitled to equal pay, allowances and other benefits enjoyed by their colleagues working as permanent employees, which the first party is denying; that the workmen were initially employed as casual labourers and later labelled as contract labourers; that the labour contract is a make believe paper arrangement, and the entire control and supervision is of first party management; that considering their 10 to 14 year of uninterrupted continuous service, they are entitled for

permanency and other consequential benefits. The second party Union has pray that the first party be directed to make these workmen permanent from the date from which they completed 240 days' continuous service.

3. The first party Corporation has contested the present reference and has filed the written statement vide Ex. 5 inter alia denying various contentions raised by the second party Union and has submitted that Bharat Petroleum Corporation Limited's Koyali Despatch Unit is located within the premises of Indian Oil Corporation Limited Refinery, where petroleum products are filled in tank wagons/tank lorries of I.O.C. on behalf of B.P.C.L.; that the availability of tank wagons/tank lorries at Koyali is not regular and the first party also does not have direct control over the activity of filling; that the movement and filling of tank wagons/tank lorries is intermittent; that accordingly the job of sealing of tank wagons/tank lorries and a few other jobs incidental to sealing is also of an intermittent nature which does not justify engagement of full time regular employees and therefore the said jobs have been entrusted by B.P.C.L. to a contractor, one Mr. Bhailal Kuber.

4(a). It is further submitted by the first party Corporation that the first party's establishment at Koyali is registered under Sub-section (2) of Section 7 of the Contract Labour (Regulation and Abolition) Act, 1970; that the Central Government is the appropriate Government in respect of the first party Corporation under the said Act; that the authority to prohibit contract labour in any activity under Section 10 of the said Act is vested with Central Government on the basis of the criteria laid down in the said Act; that there has been no prohibition of contract labour for sealing of tank wagons/tank lorries under Section 10 of the said Act; that the Industrial Tribunal has no jurisdiction or authority to prohibit contract labour in any activity through an award; that abolition of prohibition of contract labour cannot be the subject matter of the instant reference:

4(b) The first party Corporation has further submitted that even if Central Government were to prohibit movement of contract labour for sealing of tank wagons and tank lorries at the first party's Koyali Despatch Unit by a Notification under Section 10 of the Contract Labour (Regularisation and Abolition) Act, 1970, then also there is absolutely no scope for the contractor's workmen to claim absorption in the first party Corporation's service, that there is no statutory right whatsoever by which such claims by contractors' workmen can be supported; then therefore the instant reference is not tenable in law; that if the first party Corporation were to engage permanent hands for all types of intermittent part-time activities, which are not the regular activities of its establishment at Koyali Despatch Unit, it will have to carry huge idle surplus manpower, which is against all Government directives and national interest.

4(c) The first party Corporation has further submitted that the reference in question is vague in as much as it is not understood as to whether the reference is in respect of workmen engaged by contractors or in respect of casual workers engaged by first party Corporation; that one Mohanbhai Punjabhai Parmar and fifteen other persons on whose behalf of the Rashtriya Mazdoor Union, Baroda, the second party herein sought reference and on whose behalf the instant reference has been made to this Hon'ble Tribunal, had earlier filed regular civil suit No. 629 of 1990 against Bharat Petroleum Corporation Ltd., the first party Corporation, in the Court of Civil Judge (Jr. Division) at Baroda in respect of the same matter which is an issue in the instant reference; that in the said civil suit the plaintiffs had also filed an application Ex. 5 seeking interim injunction against the first party Corporation on the similar lines; at that the second party to the reference has deliberately suppressed the above said facts in their statement of claim.

4(d) The first party has further submitted that second party Union cannot be legally permitted to have a second innings in respect of the same subject matter between the same parties before this Hon'ble Tribunal; that the second party to the Reference has raised a demand for permanency of the workmen employed by the contractor; that there is no direct employer-employee relationship between Bharat Petroleum Corporation Limited and the workmen employed by and working with different contractors of Bharat Petroleum Corporation Limited; that the contractors have not been made parties to the instant reference; that the second party is not entitled to claim any of the various reliefs prayed for in its statement of claim. The first party Corporation has prayed that the reference is required to be dismissed with cost.

5. On 4-8-1998 vide Ex. 12, the second party Union has filed an application for production of documents. The application was supported by an affidavit Ex. 13.

6. An order was passed below Ex. 12 on 3-2-2000, which was duly served to the first party Corporation in which the first party Corporation was directed to produce five documents called for by the second party Union and the matter was fixed for further hearing on 28-2-2000.

7. Thereafter on 8-12-98, vide Ex. 17, one Manjulaben Melabhai filed an application for taking the heirs on record, as her husband Melabhai Punjabhai Parmar has expired on 18-5-1998. The application was supported by an affidavit Ex. 18. An order below Ex. 17 was passed on 3-2-2000 and his heirs name stated in the application Ex. 17 were joined as parties in the present reference. The copy of this order was also duly served to the first party Corporation.

8. The second party Union has examined one Shri Vinodbhai Jivabhai Chauhan vide Ex. 22 on 9-8-2000. Shri Vinodbhai Jivabhai Chauhan has reiterated the facts stated in the statement of claim in his examination-in-chief.

Thereafter one Shri Ashokbhai Motibhai Chauhan was examined vide Ex. 23 on 13-12-2000. Shri Ashokbhai Motibhai Chauhan has reiterated the same facts stated in the statement of claim Ex. 4. The second party Union has closed their evidence vide Ex. 24 on 13-12-2000.

9. On 28-3-2002, vide Ex. 25, the second party Union has filed an application stating that the stage of oral evidence of first party Corporation be treated as closed. An intimation was issued to the first party Corporation vide Ex. 26 by Regd. post asking them to remain present before this Tribunal on 21-6-2001, failing which the matter shall be heard ex parte. The notice Ex. 26 was duly served to the first party Corporation. The first party Corporation failed to file any reply to Ex. 25. Thereafter, on 19-9-2001 an order was passed below Ex. 25 allowing the application of the second party Union which was also duly served to the second party Corporation by Regd. post.

10. From the records and papers of this case, it is found that the second party Corporation was served with several notices of this Tribunal to remain present and to proceed with their case, but the first party Corporation has failed to remain present and proceed with their matter. It is pertinent to note here that the first party Corporation has filed their reply vide Ex. 5 which is signed by one Shri R.S. Pinkle. The first party Corporation has not even cared to cross-examine two workers who were examined before this Tribunal. The first party Corporation has not cared to produce the documents in the matter as directed by the Tribunal as her order below Ex. 12 passed on 3-2-2000. As stated by the first party Corporation, similar matter is pending before Civil Judge (Jr. Division) and that Civil Judge (Jr. Division) has passed an interim reasoned order, but first party Corporation has not taken care to produce any documentary evidence to that effect before this Tribunal. In spite of service of several notices by this tribunal, the first party Corporation has not thought it fit to appear before this Tribunal to proceed with their matter for the reasons best known only to them. In my opinion, it is the duty of first party Corporation to appear before this tribunal and produce necessary documents as well as other evidence to proceed and conduct the matter which they have failed to do. In this view of the matter and under the facts and circumstances of the case, this tribunal is left with no other alternative, but to believe the say of the second party Union that the workmen represented by them are working for the past 10 to 14 years as helpers/labourers and that they are regular, sincere, honest and their past records of service are clean and blotless and that they have put in uninterrupted and continuous service with the first party Corporation and that they should be paid at par with other workers of the first party Corporation. It is the case of the first party Corporation that workers represented by the second party Union are the workers of contractors, but first party Corporation has not produced any documentary or oral evidence in support of their case before

this Tribunal, in spite of several notices issued by this Tribunal. Considering the facts of this case, this Tribunal is left with no other alternative, but to believe the say of the second party Union and come to the conclusion that demand of Rashtriya Mazdoor Union Baroda on the management of Bharat Petroleum Corporation Limited for regularisation of and grant of permanency and other consequential benefits to the 16 workmen engaged on casual/contract basis at the management's Koyali Unit is justified. In this premises, I pass following order :—

ORDER

The demand of the Raghtriya Mazdoor Union, Baroda on the management of Bharat Petroleum Corporation Limited for regularisation of and grant of permanency and other consequential benefits to the 16 workmen engaged on Casual/Contract basis at the management's Koyali Unit is justified. The first party Corporation is hereby directed to grant the 16 workmen permanent status from the date from which they have completed 240 days' continuous service and grant other consequential benefits to the 16 workmen as mentioned in the order No. L 30011/27/89-IR (Misc.) dated 15-10-1990 from the date of their completion of 240 days continuous service. No order as to cost.

Ahmedabad,

Dated : 18-10-02

N. J. SHELAT, Presiding Officer

नई दिल्ली, 20 जनवरी, 2003

का. आ. 557.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. रासू सेख व मौजू सेख के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद नं. 1 के पंचाट (संदर्भ संख्या 168/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-01-2003 प्राप्त हुआ था।

[सं. एल-29012/84/99-आई. आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 557.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 168/99) of the Central Government Industrial Tribunal Dhanbad No. 1 now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Rasu Seikh & Mouju Seikh and their workman, which was received by the Central Government on 13-1-2003.

[No. L-29012/84/99-IR(M.)]

B. M. DAVID, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NO. I, DHANBAD**

In the matter of a reference under Sec. 10 (1)(d)(2A) of
the Industrial Disputes Act, 1947.

Reference No. 168 of 1999.

Parties : Employers in relation to the management of
M/s. Rasu Seikh & Mouju Seikh, Pipaljori Stone Co.,

AND

Their Workmen.

PRESENT : Shri S.H. Kazmi, Presiding Officer.

APPEARANCES :

For the Employers : None.

For the Workmen : None.

State : Bihar. Industry : Stone.

Dated, the 23rd December, 2002

AWARD

By Order No. L-29012/84/99/IR (M) dated 4-10-99 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of M/s. Rasu Seikh and Mouju Seikh, Pipaljori Stone Co., in retrenching S/Shri Razak Seikh, Gulam Aulia, Md. Bakkar Seikh and Ainul Seikh is justified? If not, to what relief the workmen are entitled?”

2. It appears from the record that this reference case was registered in this Tribunal on 7-12-1999 and since then the case is pending for filing of the written statement on behalf of the workmen. Only adjournment after adjournment has been granted so far to enable the workmen to appear and files written statement. On 16-9-2002 once again a notice was sent to the workmen under registered cover for taking necessary step but even then the position remained the same and neither on the next date fixed i.e. 1-11-2002 nor even to-day any one has appeared or any step whatsoever has been taken. Quite evidently the dispute which has been referred to this Tribunal for adjudication is no more in existence otherwise the workmen would have certainly appeared in this case by now and would have taken the prompt step and would not have left this case unattended.

Considering the past developments as notices above, it is needless to keep this case pending for any longer. Therefore, the reference case stands finally disposed of.

S.H. KAZMI, Presiding Officer

नई दिल्ली, 20 जनवरी, 2003

का. आ. 558.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने आई. बी. पी. को. लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 256/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-01-2003 को प्राप्त हुआ था।

[सं. एल-30012/1/99-आई. आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 558.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 256/2001) of the Central Government Industrial Tribunal Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s I.B.P. Co. Ltd. and their workman, which was received by the Central Government on 03-01-2003

[No.L-30012/1/99-IR(M)]

B.M. DAVID, Under. Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM LABOUR COURT BHUBANESWAR****Present:**

Shri S.K. Dhai, OSJS (Sr. Branch), Presiding
Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO. 256/2001

Date of conclusion of hearing 16th Dec. 2002

Date of Passing Award 24th Dec. 2002

Between:

The Management of the General Manager,
M/s. I.B.P. Co. Ltd., Shantiniketan Building,
12th Floor, 8, Camac Street,
Calcutta-700017.

... 1st Party-Management.

AND

Their Workmen Shri K. Dhananjay,
S/o. K.V.Rao, Shri Satya Nivas, Behind
Church Hatbazar, Khurda Road, Orissa.

... 2nd Party-Workman.

Appearances:

Shri Pradeep Guha Thakurta. ... For the 1st
Party Management
Shri K. Dhananjay For Himself- 2nd
Party-Workman

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-30012/1/99-IR (M), dated 14-05-1999:

“Whether the action of the Management of M/s. I.B.P. Co. Ltd., Bhubaneswar, in terminating the

services of Shri K. Dhananjay, is legal and justified? If not, to what relief the workman is entitled?"

2. The case of the 2nd Party as per his Claim Statement may be stated in brief. He was appointed by the 1st Party-Management on 7-12-1991. He worked in Cuttack Depot till February 1998. He was attending the work of preparation of I.B. Challans, Joint Certificate, regular bank deposits, regular R.R. submission, daily staff report, party-wise statement etc. He was disengaged in the month of February 1998. Initially, he was being paid Rs. 850 per month. Thereafter his salary was enhanced to Rs. 1,000/ and again it was enhanced to Rs. 1,500. He was not paid the salary for the month of February 1998 when he was disengaged. The 2nd Party has further pleaded that, during his service carrier he was not negligent and he was discharging his duties to the best satisfaction of the 1st Party-Management. But his service was terminated without assigning any reasons and without following the principles of Industrial Disputes Act. So, he raised the dispute, conciliation was made but after failure of the conciliation, the present reference has been made. The 2nd Party has prayed for reinstatement with retrospective effect and for regularization.

The 1st Party-Management has filed their Written Statement. The 1st Party-Management in their Written Statement has taken the stand that the 2nd Party was not appointed by them. There was no relationship of employer and employee between the 1st Party-Management and the 2nd Party-Workman. It has been further pleaded that the 1st Party-Management is marketing of Petroleum Products like Motor Spirit, High Speed Diesel, Superior Kerosene Oil, and Allied Products etc. It has very few numbers of Retail Outlets for sales of Petrol, Diesel, Lubricants and Allied Products, at or around Cuttack. The Company draws supplies of Petrol, Diesel etc. for Retail Outlets under hospitality arrangement, from the Depot at Cuttack owned and managed by M/s. Indian Oil Corporation Limited. Since the transaction for such supplies/sales had been very few, the handling and/or documentation of supplies were being done through some of Retail Outlet Dealers on purely contract basis. The 1st Party-Management signed the present Memorandum of Understanding (MOU) on 15-3-1991 with effect from 1-10-1989 with M/s. Indian Oil Corporation Limited for Inter Company Product supply arrangement on sale/purchase basis at various supply locations. Cuttack Depot is one of the locations covered under the said MOU. Consequently, the 1st Party-Management was required to position its own product at Cuttack Depot through Tank Wagon and/or Tank Lorry dispatches from various locations as per supply plan entitlement. Prior to 30-9-1989, Indian Oil Corporation used to supply their own product under consignment sale arrangement from Cuttack Depot and the 1st Party-Management was paying to Indian Oil Corporation for the same as per payment terms and conditions prevailing at that time. For the Cuttack Depot, various Handling Contractors had been appointed from time to time. The 2nd Party was engaged by one of the Handling Contractor. He was not appointed by the 1st Party-Management nor any

payment was made to him. The 2nd Party was working with a Contractor of the Indian Oil Corporation at the Cuttack Depot and he had received the payment for various contractual jobs from the Contractor of the Indian Oil Corporation. As per the records of the Indian Oil Corporation, the 2nd Party was doing the binding works, supplying of papers stationary items for them. As the 2nd Party was never an employee of the 1st Party-Management, the question of his reinstatement into service does not arise and he is not entitled for any relief from the 1st Party-Management.

On the above pleading of the parties, the following Issues have been settled :—

ISSUES

1. Whether the disputant is a Workman under the 1st Party Management ?
2. Whether there is any relationship between the Employer and Employee?
3. Whether the action of the 1st Party-Management of M/s. IBP Co. Ltd., Bhubaneswar, in terminating the services of Shri K. Dhananjay is legal and justified?
4. To what relief the disputant 2nd Party is entitled?
5. Both the parties have adduced oral evidence and filed some documents in support of their case. The 2nd Party has examined three witnesses and has exhibited 13 documents. On the other hand the 1st Party-Management have examined two witnesses and have not exhibited any documents.

FINDINGS

ISSUE NO. I & II

6. I have taken these two Issues for convenient sake. The 2nd Party has claimed his engagement under the 1st Party-Management from 7-12-91 on the strength of the appointment letter, which has been exhibited in this case as Ext.-1. In his oral evidence it is stated that, in pursuance of the appointment letter (Ext.-1) he was engaged under the 1st Party-Management. On the other hand, it is submitted on behalf of the 1st Party-Management that this Ext.-1 is not an appointment letter. It is a correspondence between Sales Officer and the Depot Manager, Indian Oil Corporation Limited, Cuttack. Besides the Workman two other witnesses have been examined on behalf of the 2nd Party. Shri N. Nages Rao and Shri Dhuleswar Mohanty. The Witness No. 2 examined on behalf of the 2nd Party has stated that the 2nd Party was attending all the work of the 1st Party-Management. In the cross examination he has stated that, he has not seen the appointment letter issued by the 1st Party-Management to the 2nd Party but he has only seen the authorization letter given to the 2nd Party. He has further stated that he do not have any idea about the recruitment process of the 1st Party-Management. He has further admitted that he can not say at which post and

at what salary the 2nd Party was engaged by the 1st Party-Management. The evidence of the Witness No. 3 examined on behalf of the 2nd Party is similar to the evidence of the Workman Witness No. 2. Ext.-1 is a letter addressed by the Sales Officer of the 1st Party-Management to Depot Manager, Indian Oil Corporation Limited, Cuttack Depot, which reveals that there was change of representative for the Cuttack Depot and the specimen signature of the 2nd Party was mentioned. The first witness examined on behalf of the 1st Party-Management is a dealer under the 1st Party-Management. He was appointed as a handling contractor located at Cuttack. He has stated that he had engaged the 2nd Party to work under him and he was paying the salary to the 2nd Party. He has been suggested by the 2nd Party that he is supporting the 1st Party-Management. The Witness No. 2 of the 1st Party-Management has stated that the 2nd Party was working under his control and he was paying his salary. Similar suggestion was given to this witness also. I do not find any reason to disbelieve the oral evidence adduced on behalf of the 1st Party-Management. Even if the evidence of the 1st Party-Management is not accepted for the argument sake the 2nd Party in my opinion has not been able to prove that he was appointed by the 1st Party-Management because no order of appointment has been filed by him. Admittedly the Ext.-1 is not an appointment letter. The documents exhibited on behalf of the 2nd Party do not disclose that he was appointed by the 1st Party-Management and had received the salary from them. Though the signature of the 2nd Party appears on the Exts.-2, 3 and some other documents, I am unable to convince that those documents can help the 2nd Party to establish his case that he was appointed by the 1st Party-Management and had received the salary from them. When the 2nd Party has claimed to have been appointed or to have been engaged by the 1st Party-Management and has received the salary for more than 240 days and the 1st Party-Management has denied, the onus lies on the 2nd Party to prove his case by producing the letter of appointment/engagement and copies of the vouchers under which payment has been received in view of the observation made by the Hon'ble Apex Court in the case of the Range Forest Officer -Versus- S.T. Hadimani, reported in JT 2002(2) SC 238, but the 2nd Party has failed to prove his case. So, in that case in absence of any materials it cannot be said that the 2nd Party was appointed by the 1st Party-Management and had received the salary from the 1st Party-Management. In other words the 2nd Party has failed to make out a case that he was a Workman under the 1st Party-Management and that there was relationship of employer and employee between him and the 1st Party-Management. These two Issues are answered accordingly.

ISSUE NO. III

7. No documents have been filed by the 2nd Party to the effect that, the termination order or disengagement order has been passed by the 1st Party-Management in his favour. Even if he has been terminated or disengaged, the 1st Party-Management would not be responsible for his termination or disengagement even though it

may be stated that the said termination as illegal and unjustified.

ISSUE NO. IV

In view of my findings recorded in respect of Issue No. I, II and III, the 2nd Party is not entitled for any relief.

9. Reference is answered accordingly.

Dictated & Corrected by me.

S. K. DHAL, Presiding Officer

BEFORE THE C.G.I.T.-CUM-LABOUR COURT,
BHUBANESWAR

Tr. I. D. Case No. 256/2001

List of the Witnesses Examined on behalf of the 2nd Party Workman.

- W.W. No. 1. Shri K. Dhananjay (the 2nd Party-Workman)
- W.W. No. 2. Shri N. Nages Rao.
- W.W. No. 3. Shri Dhuleswar Mohanty.

List of the Witnesses Examined on behalf of the 1st Party-Management.

- M.W. No. 1. Shri P. K. Samantaray.
- M.W. No. 2. Shri Dinabandhu Mohapatra.

List of Documents exhibited on behalf of the 2nd Party-Workman.

- Ext.-1. Copy of the Appointment order dated 7-12-1991.
- Ext.-2. IBP Challans.
- Ext.-3. IBP Challans.
- Ext.-4. Copy of the Joint Certificate.
- Ext.-5. Copy of Bank deposit challans.
- Ext.-6. Copy of Misc. Correspondence.
- Ext.-7. Copy of filing advices, Daily Stock report.
- Ext.-8. Copy of Party-wise supply statement.
- Ext.-9. Copy of Rty. Co-ordination.
- Ext.-10. Copy of Documents relating to IBP Retail Outlets.
- Ext.-11. Copy of Sales Register IBP Co. Ltd., Cuttack.
- Ext.-12. Copy of Central Excise work.
- Ext.-13. Copy of regular RR submissions.

List of Documents exhibited on behalf of the 1st Party-Management.

No documents has been exhibited on behalf of the 1st Party-Management.

नई दिल्ली, 20 जनवरी, 2003

का. आ. 559.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. श्री मिनरल्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद नं. 1 के पंचाट (संदर्भ संख्या 152/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-1-2003 को प्राप्त हुआ था।

[सं. एल-29011/10/99-आई. आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 559.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 152/99) of the Central Government Industrial Tribunal Dhanbad No. 1 now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Shree Minerals and their workman, which was received by the Central Government on 13-01-2003.

[No. L-29011/10/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under sec. 10(1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 152 of 1999

Parties : Employers in relation to the management of M/s. Shree Minerals.

AND

Their Workmen

PRESENT : Shri S.H. Kazmi,
Presiding Officer

APPEARANCES :

For the Employers : None

For the Workmen : None

State : BIHAR Industry : Minerals.

Dated, the 23rd December, 2002

AWARD

By Order No. L-29011/10/99/IR(M) dated 7-7-1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. Shree Mineral, Calcutta, in dismissing S/Shri Jogen

Mondel, Dhananjay Mondal and Binod Mondal vide management's letter dated 31-12-97 is justified? If not, to what relief the workmen are entitled?"

2. It appears from the record that after the registration of this reference in this Tribunal right from the year 1999 itself none is appearing particularly on behalf of the workmen, who are persons aggrieved and at whose instance the present reference has been referred to this Tribunal for adjudication. Considering the past developments it is evident that either is no any dispute now in existence for being adjudication or the workmen have lost interest in this case and do not want to pursue the same for the reason best known to them. As in the instant case only one after another adjournment has been granted so far without any significant development it would be sheer wastage of time and would also be absolutely needless to keep this case pending for any longer, this reference, as such, stands finally disposed of.

S. H. KAZMI, Presiding Officer.

नई दिल्ली, 20 जनवरी, 2003

का. आ. 560.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत पेट्रोलियम कॉर्पो. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुंबई-II के पंचाट (संदर्भ संख्या 167/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-01-2003 को प्राप्त हुआ था।

[सं. एल-30012/18/99-आई. आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 560.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 167/99) of the Central Government Industrial Tribunal, Mumbai No. II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Petroleum Corp. Ltd. and their workman, which was received by the Central Government on 8-01-2003.

[No. L-30012/18/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II MUMBAI

PRESENT :

S. N. SAUNDANKAR,

Presiding Officer

REFERENCE CGIT-2/167 OF 1999

EMPLOYERS IN RELATION TO THE
MANAGEMENT OF BHARAT PETROLEUM
CORPORATION LTD.

The Dy. Manager (IR),
Bharat Petroleum Corp. Ltd., Western Region,
Bharat Bhawan, 4 & 6 Currimbhoy Road,
Ballard Estate,
Mumbai 400001.

AND

THEIR WORKMEN

The Secretary General,
Petroleum Employees Union,
Tel-Rasayan Bhawan,
Tilak Road, Dadar,
Mumbai-400014.

APPEARANCES:

For the Employer : Mr. R.S. Pai,
Advocate
For the Workmen : Mr. Jaiprakash Sawant,
Advocate

MUMBAI, dated 2nd December, 2002

AWARD PART-I

The Government of India Ministry of Labour by its Order No.L-30012/18/99-1R(M), dated 9-8-99 have referred the following dispute for adjudication to this Tribunal in exercise of powers conferred on it by Clause (d) of sub-section (1) and sub-section 2(A) of Sec. 10 of the Industrial Disputes Act, 1947 :

“Whether the action of the management of Bharat Petroleum Corporation Ltd., Mumbai in demoting Mr. Vijay Pawar in improper rank and grade and not giving full back wages, reducing his basic wages and discontinuing his services is justified? If not, to what relief he is entitled?

2. Workmen Shri Pawar was appointed as Fuelling Crewman (Grade 3) at Santacruz Aviation of Bharat Petroleum Corporation Ltd. in 1983 and was subsequently promoted as Head Fuelling Crewman II in Grade 7. Workman pleaded that on 22-12-92 he was suspended to victimise him for his trade union activities and was issued chargesheet dated 23-2-93 which he replied on 6-4-93. He pleaded that chargesheet was vague and defective and the person who issued it was not competent to do so. Workman averred that he was not given subsistence allowance as admissible under the law and that Inquiry Officer entertained the allegation made against him which were not part of the chargesheet and that evidence was allowed to lead on new allegations consequently enquiry was against the principles of natural justice. It is pleaded that Inquiry Officer ignored the material evidence, he did not apply his mind to the written arguments given by the workman and that the findings recorded by the Inquiry Officer and against the documents and evidence hence perverse. It is pleaded Inquiry Officer by the report dated 22-3-94 held him guilty for the charges levelled in the chargesheet and based on that disciplinary authority by order dated 24-10-94 dismissed him from

service which workman assailed before the appellate authority and that the appellate authority by order dated 27-6-95 revoking the order of dismissal imposed punishment of reduction of his basic wages. It is averred Inquiry Officer, disciplinary authority and appellate authority acted contrary to law therefore, he contended to set aside enquiry.

3. Management Corporation resisted the claim of workman by filing written statement(Ex-7) contending that the reference is not maintainable as the cause was not exposed by the union and that the punishment of reduction of basic wages concerning workman is individual dispute, does not partake the character of ‘industrial dispute’ as defined under Section 2(K) of the Industrial Disputes Act, for want of exposure of the case by a substantial number of workman. It is averred that the demotion of workman cannot be the subject matter under provision of Section 2(A) of the Industrial Disputes Act, and on this count also reference is not maintainable. It is pleaded by the management that on 21-12-92 workman reported for duty late and was in an inebriated condition and that disobeying the directions, disorderly behaving he damaged the Company’s property which was subversive of discipline therefore, he was suspended on 22-12-92 and pending suspension he was given chargesheet dated 23-2-93. It is pleaded Inquiry Officer Mr. S.B. Alurkar giving sufficient opportunity held the enquiry and that by the report dated 22-3-94 found the workman guilty for the charges and based on the report workman was dismissed on 24-10-94. It is pleaded workman filed an appeal dated 15-12-94 and taking lenient view, order of dismissal was revoked imposing punishment of reduction of basic pay, under Clause 29(5)(3) of the Corporation’s Certified Standing Orders. It is pleaded chargesheet was clear and not vague, enquiry was held in consonance with the principles of natural justice and that Inquiry Officer considering the evidence and documents, held the workman guilty by the report dated 22-3-94 consequently workman’s claim be dismissed with costs.

4. By rejoinder (Ex-8) workman averred that workman directly and substantially interested which amounts to industrial dispute, further contending that workman possesses the qualification required for the post of Head Fuelling Crewman or Fuelling Crewman therefore, his demotion is not warranted. Consequently reiterating the recitals in the claim statement, he denied the averments in the written statement.

5. On the basis of the pleadings my Learned Predecessor framed issues at Exhibit- 10 and in the context of preliminary issues, workman Pawar filed his affidavit in lieu of Examination-in-Chief (Ex-12) and his defence representative Shri Kulkarni (Ex-19) and closed evidence vide purshis (Ex-20). Management filed affidavit of Inquiry Officer Mr. Alurkar (Ex-21) and closed evidence vide purshis (Ex-22).

6. Workman filed written submissions (Ex-24) and the management (Ex-23). On perusing the record, written submissions and hearing the counsels for both the sides, I record my findings on the following preliminary issues for the reasons stated below :

ISSUES**FINDINGS**

- | | |
|--|---|
| 1. Whether the domestic enquiry which was conducted against the workman was against the principles of natural justice? | : Domestic enquiry held against the workman was as per the principles of natural justice. |
| 2. Whether the findings of the Inquiry Officer are perverse? | Findings of the Inquiry Officer are not perverse. |

REASONS

7. At the outset it is to be noted that in this interim award we are concerned with the fairness of enquiry and perversity of findings and not necessary to go to the merits of the matter. According to workmen Pawar domestic enquiry conducted against him was against the principles of natural justice as the charges were vague and not clear and that new and unknown allegations were allowed to record as mentioned in the document at Sl.No. 7 filed with list (Ex-9). He further stated that he was not given full amount of subsistence allowance as admissible under the law for this also the enquiry is bad. His defence representative Mr. Kulkarni reiterated the allegations made by the workman.

8. So far domestic enquiry is concerned, Their Lordships of the Apex Court in *Sur Enamel and Stamping Works V/s Their workmen 1963 11 LLJ SCC p. 367* ruled that enquiry cannot be said to have been properly held unless :

- (1) the employee proceeded against has been informed clearly of the charges levelled against him.
- (2) the witnesses are examined-ordinarily in the presence of the employee in respect of the charges.
- (3) the employee is given a fair opportunity to cross examine witnesses.
- (4) he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter and
- (5) the Inquiry Officer records his findings with reasons there for the same in his report.

Workman Pawar admits in his cross-examination para 7 that he had received chargesheet which he replied on 16-4-93 understanding the things mentioned therein. On plain reading of his reply (Ex-14) nowhere mentions that charges were vague and unclear. Workman who was a union member was admittedly represented by defence representative Mr. Kulkarni, who was present through out in the enquiry, but he also did not whisper to that effect

and it is seen for the first time workman and his defence representative Mr. Kulkarni state that the charges were vague. On plain reading of the charges pages 2-5 (Ex-9) are clear and simple therefore, I find no substance in the above said contention of workman.

9. So far the subsistence allowance is concerned, workman admits in his cross-examination that the Corporation by the letter dated 2-12-94 sent him a draft of wages and that on the basis of his appeal the appellate authority reduced the punishment and he is receiving wages of Grade-5 operators. It is not that workman had not received the subsistence allowance. It is settled legal position that non payment of subsistence allowance itself does not make the enquiry bad and it is to be pointed out by the delinquent concerned that non payment of subsistence allowance caused him prejudice however nothing of this sort on record. So far the enquiry is concerned, workman admits enquiry was commenced from 17-5-93 and concluded on 12-10-93, whatever submissions he had to make he had placed before the Inquiry Officer. He had received the copies of proceedings, the order of the findings of the Inquiry Officer which clearly shows that workman was given fair opportunity in the matter. On going through the enquiry proceedings filed with list Ex-9 and 13 in the light of the tests referred in the decision supra. It is therefore clear that giving sufficient opportunity the enquiry was held and I find no reason to say that it was against the principles of natural justice.

10. So far the findings of the Inquiry Officer according to workman are perverse, it is pointed out that new and unknown allegations were allowed to be recorded. On perusing enquiry proceedings it is seen Inquiry Officer had recorded evidence of Senior Technician Mr. Barve, Senior Aviation Officer Mr. Venkatramani, Mr. Seturaman, Mr. Sudesh and Security Guard Mr. Jadhav who disclosed on incident, as seen from pages 136-138. They have clearly pointed out the incident dated 21-12-92, their evidence cannot be said to be not concerned with the incident and the allegation made in the chargesheet. 'Perversity' is that when the findings are such which no reasonable person would have arrived at on the basis of material before him. In the case in hand, it is clearly seen that the Inquiry Officer referred the evidence and documents for the reasons therefore, findings cannot said to be perverse.

11. The question whether in a given case the principles of natural justice are violated or not is to be found out on consideration as to whether the procedure adopted by appropriate authority is in accordance with law or not and further whether the delinquent knew what charges he was going to face. In short, what is required to be seen whether the workman knew the nature of accusation, whether he has been given opportunity to state his case, whether the authority has acted in good faith. In the case in hand, nothing to show that principles of natural justice are violated. As stated above since findings recorded

on the basis of documents and evidence, cannot be said to be perverse. Consequently issues are answered accordingly and hence the order :

ORDER

The domestic enquiry conducted against the workman Mr. Vijay Pawar was as per the principles of natural justice and the findings of the Inquiry Officer are not perverse.

S.N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 20 जनवरी, 2003

का. आ. 561.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार च्वाइस ट्रेडिंग कार्पो. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार प्रम न्यायालय इरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 03-01-2003 को प्राप्त हुआ था।

[सं. एल-35012/3/99-आई. आर. (विधि)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 561.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Choice Trading Corpn. and their workman, which was received by the Central Government on 03-01-2003.

[No. L-35012/3/99-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT, ERNAKULAM

(Wednesday, the 27th day of November, 2002)

Present

Smt. N. Thulasi Bai, B.A.L.L.B.,

Presiding Officer

Industrial Dispute No. 2 of 2000 (Central)

Between

The Managing Director, M/s Choice Trading Corporation, Choice House, Cochin.

And

The workman of the above concern Sri. P. B. Pradeep, H. No. 18/7604, Koyikkal House, Waterland Road, Paliuruthy, Cochin.

Representations:

Sri V. J. Mathew, For Management
Advocate,
Ernakulam.

Sri K. P. Vijayan, For Workman
Advocate,
Ernakulam.

AWARD

This reference was made by the Central Government as per letter No. L-35012/3/99/IR(M) dated 25-1-2000. The dispute is between the Managing Director M/s Choice Trading Corpn. and their workman Sri. P. B. Pradeep. The dispute referred is:

"Whether Shri. P.B. Pradeep is a workman as defined under the Industrial Disputes Act, 1947? If so, whether the action of the management of Choice Trading Corporation Limited in terminating his services w.e.f. 2-4-1997 is legal and justified? If not, to what relief the employee is entitled?"

2. Pursuant to notices issued to this court both the workman and management appeared through counsel.

3. Workman filed a claim statement raising the following claims:- The workman was employed by the management w.e.f. 24-2-1978 in their shipping division T.J. Ship Company. He was initially assigned with many clerical work and also with the job of attending stevedoring work done by the contractors as representative of the company. Though he was designated as Assistant Foreman, foreman, Supervisor, Executive (Operations) from time to time his nature of work was mainly as a clerk or field assistant. The academic qualification of the workman is only S. S. L. C. The wages of the workman was not paid regularly and promptly. He protested against the attitude of some of the executives of the company and he made complaints in that respect to the higher authorities of the management directly which caused to develop unpleasant relationship and animosity among some of the immediate superior officers of the workman. When his wages were withheld the workman was constrained to lodge complaint before the Labour authorities which irritated the management. Accordingly the service of the workman was terminated w.e.f. 1-4-1997 as per letter dated 2-4-1997. No retrenchment compensation was paid and he was not paid with other benefits of P. F., Bonus etc. So according to the workman he is entitled to be reinstated with backwages and other benefits and if the management is not prepared to reinstate the workman, he is satisfied with payment of adequate compensation.

4. Management filed a preliminary objection in reply to the claim statement contending as follows:—The Assistant Labour Commissioner (Central) has found that the employee herein is not a workman coming under the purview of section 2 (S) of the Industrial Disputes Act and

directed him to approach appropriate forum to seek the required relief. Accordingly the workman filed O.S. 723/99 before the Sub Court, Ernakulam which ended in dismissal after considering the contentions raised by the management. The employee was working as a supervisor in the T.J. Shipping Company under the management and due to financial crisis. The management reduced the staff strength in the section which resulted in the termination of service of the employee. He was paid Rs. 9259/- in full and final settlement of gratuity after deducting an amount of Rs. 86525/- towards Housing loan availed by the employee from the management. So according to the management the employee is not a workman coming under the purview of the Industrial Dispute Act thereby the maintainability of the reference has to be considered as a preliminary issue with reservation of right to file additional written statement if necessary.

5. After the written statement no rejoinder was filed and the case was pending for preliminary hearing. Thereafter the workman and counsel were continuously absent and the management argued their preliminary objection that the employee involved in the present case is not a workman within the purview of the Industrial Disputes Act.

6. Thus the only point arises for determination at this stage is that :

(1) Whether the employee Sri. P.B. Pradeep is a workman as defined under the Industrial Disputes Act 1947?

7. Point :—As per Section 2(S) (iv) an employee, being employed in a supervisory capacity, draws wages exceeding Rs. 1600/- per month or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature is exempted from the purview of the definition of workman. In the present case it is admitted by the employee himself that he was drawing a monthly salary of Rs. 4350/- per month during his last months of service and his earlier salary was Rs. 1850/- So also it is admitted that he was attending so many duties as a representative of the company and he was designated as Assistant Foreman, Foreman, Supervisory executive (Operations) etc. from time to time. It was pointed out by the management that the Assistant Labour Commissioner (Central) has found that the employee herein is not a workman under Section 2(S) of the Industrial Disputes Act and directed to approach appropriate forum to seek the required relief. Accordingly the employee filed O.S. 723/99 before the Sub Court, Ernakulam which ended in dismissal. In the absence of any reply refuting the contention of the management and in the absence of the employee before court this court is constrained to accept the argument of the management's counsel and to find that the employee herein is not a workman coming within the purview of Section 2(S) of the Industrial Disputes Act and the reference can be closed basing on it. Point answered accordingly.

In the result, an award is passed finding that the employee Sri. P. B. Pradeep is not a workman as defined under the Industrial Disputes Act, 1947 thereby the reference itself is not sustainable.

Dictated to the Confidential Assistant, transcribed and typed out by her, corrected by me and passed this on the 27th day of November, 2002.

Ernakulam

N. THULASI BAI, Presiding Officer

नई दिल्ली, 20 जनवरी, 2003

का.आ. 562.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इण्डियन रेअर अर्थस लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचाट (संदर्भ संख्या 84/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-01-03 को प्राप्त हुआ था।

[सं. एल-29012/16/91-आई. आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 562.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 84/91) of the Central Government Industrial Tribunal-Cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Rare Earths Ltd. and their workman, which was received by the Central Government on 13-01-03.

[No. L-29012/16/91-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR-COURT

"SHRAM SADAN"

III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YESHWANTHPUR, BANGALORE

DATED : 30TH DECEMBER, 2002

PRESENT : Hon'ble Shri V. N. Kulkarni, B.Com, LLB,
Presiding Officer

CGIT-CUM-LABOUR COURT, BANGALORE

C.R. NO. 84/91

I Party

Shri S. Batheruddin,
No. MIG 36,
Near Masjid Quba,
Udayagiri,
Mysore

II Party

The Administrative Officer
Indian Rare Earths Limited,
Ratnahally Complex,
Mysore Hunsur Highway.
Yelwal Post,
Mysore.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-29012/16/91/IR (Misc.) dated 6th December, 1991 for adjudication on the following schedule :

SCHEDULE

"Whether the management of Indian Rare Earths Ltd. Rare Material Plant, Yelwal, Mysore is justified in terminating the services of Shri S. Batheruddin, Scientific Assistant 'C' Civil? If not, to what relief the workman is entitled to?"

2. The first party was working with the management. He was terminated and therefore Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. It is the case that he was appointed by the management w.e.f. 19-12-1984 vide order No. 96 dated 3-1-1985 of the Head Office as Supervisor Civil, RMP on fixed terms basis in the scale of Rs. 500 to 900 and posted to Rare Material Plant, Mysore and his services were confirmed w.e.f. 1-11-1985. The Management by an order dated 15-2-1987 have changed the designation of the First party workman as Scientific Assistant 'C' Civil along with other employees of the same category. He was interviewed along with other employees for promotion. He was denied the promotion because the Mysore South Police had booked a case against the first party workman alleging that the first party had furnished incorrect information to the Passport Authority for obtaining a Passport. The management even refused to give certificate for renewal of his Passport and there is victimization. The management terminated the workman and the termination order is illegal.

6. Termination was without following the mandatory provisions of Section 25F of the ID Act. The Juniors of the first party workman in the same category were continue in appointment. First party of these reasons and for some other reasons has prayed to pass award in his favour.

7. The case of the Management in brief is as follows :

8. It is the case of the management that the workman was appointed as Supervisor (Civil) w.e.f. 19th December, 1984 and designation was subsequently changed and the scale of pay was revised. It is true that he was confirmed w.e.f. 1-1-1985 and the service period was extended.

9. It is the further case of the management that a criminal case was pending against him and he was promoted to higher post. His services were not terminated

as a disciplinary measure but strictly in accordance with the terms of appointment and therefore, question of compliance of Section 25F of the ID Act does not arise at all. Management for these reasons and for some other reasons has prayed to reject the reference.

10. It is seen from the records that my learned predecessor by its order dated 25th November, 1998 has rejected the reference. It is forthcoming from the records that Miscellaneous Application was filed by the workman and my learned predecessor by his order dated 14th September, 1999 has rejected the Miscellaneous Application filed by the workman. Thereafter the workman filed Writ Petition. The Writ Petition was allowed and the reference is restored.

11. Prior to this the workman has directly filed Writ Petition before the High Court of Karnataka in Writ Petition No. 15091 of 1990. The said Writ Petition of the workman was not entertained on the ground that the workman could avail the alternative remedy as provided under the Industrial Dispute Act, 1947. On the basis of this Order of the High Court of Karnataka in the above Writ Petition the present Industrial Dispute is raised.

12. After the reference is restored, some new developments have taken place.

13. The Ministry has examined the reference and has come to the conclusion that Rare Materials Plant, Mysore is a part of the Bhabha Atomic Research Centre, it has been decided that Rare Materials Plant, Mysore is also not an "Industry" under the Industrial Dispute Act, 1947.

14. The learned counsel appearing for the management has filed memo praying to dismiss the reference on the ground that this Tribunal has no jurisdiction.

15. I have heard both sides in detail. The learned counsel appearing for the workman, Mr. B/V.S. Naik submitted that in view of the memo it is a fact that the Ministry of Labour, Govt. of India has held that the Management is not an Industry and therefore, he has to approach the appropriate authority viz. the Central Administrative Tribunal.

16. With this fair submission of Mr. Naik, I am of the opinion that this dispute is not maintainable before this Tribunal. Accordingly I proceed to pass the following Order :

ORDER

The reference is rejected on the ground that the same is not maintainable with a liberty to the workman to approach Competent Authority. Accordingly reference is disposed off.

(Dictated to PA transcribed by her corrected and signed by me on 20th December, 2002.)

V.N. KULKARNI, Presiding Officer

नई दिल्ली, 16 जनवरी, 2003

का.आ. 563.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय ई०सी०एल० प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल (संदर्भ संख्या 64/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-01-2003 को प्राप्त हुआ था।

[सं० एल-22012/288/98-आई० आर. (सी. II)]

एन०पी० केशवन, डेस्क अधिकारी

New Delhi, the 16th January, 2003

S.O. 563.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 64/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 15-01-2003.

[No. L-22012/288/98-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Shri Ramjee Pandey,
Presiding Officer.

Reference No. 64 of 1999

Parties : Agent, Jhanjra Project, ECL Management.

Vrs.

Sh. Ramdeo Das, U. G. Loader Workman.

Representation :

For the management : Shri P.K. Das, Advocate.

For the union (workman) : Shri S.K. Pandey, Chief
General Secy. of Koyala
Mazdoor Congress.

Industry : Coal State : West Bengal

Date the 15th November, 2002

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947, Govt. of India through the Ministry of Labour vide its Order No. L-22012/288/98/IR (CM-II) dated 11/16-06-1999 has referred the following dispute for adjudication by this Tribunal :

“Whether the action of the Management of 3 & 4 Incline of Jhanjra Project of M/s. ECL in dismissing Sh. Ramdeo Das, Underground Loader is legal and Justified? If not to what relief the workman entitled?”

In response to the summons issued by the Tribunal both the parties appeared through their respective representatives. The management appeared through Shri P.K. Das, Advocate and the union (workman) appeared through Shri S.K. Pandey, Chief General Secretary of the union. Both the parties filed their respective written statements and contested the dispute.

The facts of the case in brief, are that the workman viz. Sh. Ramdeo Das was a permanent employee of M/s. ECL and was posted as Underground Loader at Jhanjra 3 & 4 Incline in Jhanjra Area. The workman became absent from his duty from 13-12-93 to 21-5-94 for which he was charge-sheeted and after conducting domestic enquiry he was dismissed from his service by the management.

The case of the management in brief is, that the absence of the workman was unauthorised because he did not obtain leave for that period and he became absent without prior intimation to the management and accordingly he was charge-sheeted but reply of the workman was not found satisfactory and hence a domestic enquiry was started in course of which the charge against the workman was established and considering all the circumstances the management dismissed him from service. The workman was given sufficient opportunity to defend himself and the misconduct alleged against him has been fully established and hence the order of dismissal is legal and justified. The further case of the management is that the plea of the workman to the effect that he was ill is totally false and he is not entitled to any relief.

The case of the union (workman) in brief is, that the workman did not attend his duty for the alleged period due to his sickness which was beyond his control and when he became fit he went to report for his duty but he was served with a charge-sheet the workman replied the allegation in charge-sheet and also attended the enquiry and submitted the fact of his illness along with the papers of medical treatment but the same was not considered towards proper direction. The further case of the workman is that during enquiry past record of the workman was also verified and he was found regular in his duty and considering his past record the controlling authority viz. agent of the colliery made recommendation to allow the workman to resume his duty but the same was not considered and the General Manager of the Company arbitrarily dismissed the workman from service. The order of dismissal is illegal, shocking, disproportionate to the nature of misconduct and unjustified and accordingly a prayer has been made to direct the management to reinstate the workman in service with back wages from the date of dismissal.

At the time of hearing on preliminary point of validity and fairness of domestic enquiry the union did not challenge the validity of enquiry proceeding and hence by order dated 18-4-2002 the enquiry proceeding has been

held to be valid and accordingly both the parties were heard on the merit of the case on the basis of materials collected during enquiry proceeding.

Now first point for consideration is as to whether the management has established the charge against the workman and as to whether the finding of the Enquiry Officer is based on materials on the record. In this regard learned lawyer for the management submitted that during enquiry it has been established that the workman became absent from his duty without prior information to and without permission of any authority of the management. He further submitted that the Enquiry Officer has come to the conclusion that the charge against the workman has been established. On the other hand Shri S.K. Pandey submitted that from the enquiry report itself it is clear that the Enquiry Officer has also come to the conclusion that the workman became absent due to his sickness and there is clear finding of the Enquiry Officer that the workman produced the papers of his medical treatment which have not been disbelieved and in this light of the matter the charge against the workman has not been established. In view of contrary submissions I perused the enquiry report as well as the evidence on the record. The workman himself has given evidence and has stated that suddenly he suffered severe pain in his chest and there was none to look after him and hence he left the colliery and was taken to his native village where his family members took to Sub-Divisional Hospital, Banka where he got treatment from 15-12-93 to 7-6-94. This statement of the workman has not been disbelieved by the Enquiry Officer and hence the opinion of the Enquiry Officer to the effect that charges against the workman has been established does not appear to be proper rather I find that the workman has sufficient reason to be absent from his duty due to his sickness which was beyond his control.

Next point for consideration is as to whether the order of dismissal is justified. In this regard both the parties made contrary submissions. the learned lawyer for the management supported the order of dismissal whereas Shri S.K. Pandey assailed the order of dismissal on the basis of above discussed ground as well as on the ground that the order of dismissal is shocking and hard. It has been already discussed that the plea of the workman regarding his illness and treatment in Sub-Divisional Hospital, Banka has not been disbelieved by the Enquiry Officer. By order dated 20/22-9-94 the General Manager of Jhanjra Area has served the order of dismissal of the workman but from the order of dismissal it is clear that the General Manager did not consider the plea of the workman taken during enquiry and he did not apply his mind to the materials on the record and in this light of the matter also the order of dismissal does not appear to be correct. From the materials on the record as well as the report of the Enquiry Officer only fault of the

workman appears that he did not give prior intimation to the management about his sickness and hence the order of dismissal is disproportionate, shocking and unjustified. In this view of the matter the order of dismissal is set aside and the management is directed to reinstate the workman in service.

Neither the workman has pleaded that he was not any where engaged gainfully after the order of dismissal nor the management has pleaded that the workman was gainfully employed. In case of Bishambhar Lal Kapoor Vs. Allahabad Bank reported in 2002 (93)—1223 (Delhi) it has been held that burden has not been discharged by the management. However, it is a fact that the management was deprived from the workman will be entitled to only 25% of the back wages. In the above manner the award is passed.

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 16 जनवरी, 2003

का.आ. 564.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय ई० सी० एल० प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल (संदर्भ संख्या 3/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-01-2003 को प्राप्त हुआ था।

[सं. एल-22012/542/95-आई. और (सी. II)]

एन० पी० केशवन, डेस्क अधिकारी

New Delhi, the 16th January, 2003

S.O. 564.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No: 3/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 15-01-2003.

[No. L-22012/542/95-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Shri Ramjee Pandey,
Presiding Officer.

Reference No: 3 of 1997

Parties : Agent, Bahula Colliery of, ECL ... Management.

Vrs:

Sh. Badal Kora, U.G. Loader ... Workman.

Representation :**For the Management** : Shri P.K. Das, Advocate.**For the Union (workman)** : Shri M. Mukherjee,
Advocate**Industry : Coal** : State : West Bengal.

Dated the 11th November, 2002.

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947, Govt. of India through the Ministry of Labour vide its Order No. L-22012/542/95/IR (C-II) dated 17-1-97 has referred the following dispute for adjudication by this Tribunal :

“Whether the action of the Management of Bahula Colliery under Kenda Area of ECL in dismissing Sh. Badal Kora, U.G. Loader, from services w.e.f. 18-7-94 is legal? If not, to what relief the workman is entitled?”

In response to the summons issued by the Tribunal both the parties appeared through their respective representatives. The management appeared through Shri P. K. Das, Advocate and the union appeared through Shri M. Mukherjee, Advocate. Both the parties filed their respective written statement and contested the dispute.

The facts of the case in brief, is that the workman viz. Sh. Badal Kora was permanent employee of M/s. ECL and was posted as U.G. Loader at Bahula Colliery. The workman became absent from his duty from 30-4-93 to 21-1-94 for which he was served with a charge-sheet and after conducting domestic enquiry he was dismissed from service by the management.

The case of the management in brief is, that the workman became absent from his duty for such a long period without any prior information, permission or authorised leave by any competent authority and hence he committed serious mis-conduct violating the service conditions and hence the management served a charge-sheet to the workman and conducted a domestic enquiry in which the mis-conduct of the workman was established and accordingly he was dismissed from his service. Further case of the management is that the explanation submitted by the workman was not satisfactory. The competent authority went through the allegation against the workman as well as the enquiry report and the evidence adduced before the enquiry officer and passed the order of dismissal in accordance with the finding of the Enquiry Officer. The workman was given sufficient opportunity to defend himself and hence the order of dismissal is legal and justified and it requires no interference by the Tribunal.

The case of the union (workman) in brief is, that the workman met an accident on 29-4-93 when he was at his

home and sustained injury in his head and chest resulting in bleeding from his mouth and severe pain in his head subsequently, due to which he could not attend his duties from 30-4-97 and he was undergoing medical treatment. Further case of the union is that from 8-2-94 to 25-2-94 the workman was admitted in Central Hospital, Kalla for treatment of the said injury and he was discharged from the hospital on 25-2-94 and was referred to Central Hospital, Dhanbad for better treatment. Again the workman took admission at Central Hospital, Kalla, on 27-6-94 for treatment of the said injury and he was released by the hospital on 11-7-94. The workman was served with a notice of enquiry dated 1-4-94 and he came to know that the management had issued a charge-sheet against him and had started a departmental enquiry. He replied the notice of enquiry stating therein that due to his poor health and loss of memory due to head injury he was not in a position to attend the enquiry annexing therewith the papers of his treatment but still the workman was not allowed to resume his duty and he was told that his service has been terminated w.e.f. 17-7-94. He never received any dismissal letter. The further case of the union is that the workman was dismissed without holding any enquiry and hence the order of dismissal, if any, is illegal and arbitrary. The workman has sufficient reason to be absent from his duty and more over the punishment of dismissal is too hard and disproportionate to the nature of mis-conduct and accordingly a prayer has been made to direct the management to reinstate the workman with full back wages.

Although in the written statement the union has pleaded that no enquiry was conducted before dismissal of the workman but at the time of hearing on the preliminary point of validity and fairness of domestic enquiry the union became absent and the then Presiding Officer came to the conclusion that preliminary point was not pressed by the union and held by order dated 8-9-98 that the enquiry proceeding was valid. Although the union was absent on 8-9-98 but the order dated 8-9-98 passed by learned the then Presiding Officer holding the enquiry proceeding valid was never challenged subsequently and the proceeding of this reference proceeded further assuming that the enquiry proceeding is valid and fair.

Now first point for consideration is as to whether the charge against the workman has been established and as to whether the finding of the Enquiry Officer is correct. Although learned lawyer for the union challenged the finding of the Enquiry Officer and submitted that there was no sufficient evidence on the record to establish the charge against the workman and finding of the Enquiry Officer is not correct but after perusal of the enquiry report and the evidence attached therein I find that Shri S. R. Tiwari, a clerk of the management was examined during enquiry who supported the fact that the workman was absent from his duty from 30-4-93 without any prior information. The workman himself also got his statement

recorded by the Enquiry Officer and stated that he was absent from his duty due to the fact that he had been suffering from T.B. and he was under treatment of a private medical practitioner from 30-4-93 to 14-2-94 and he submitted a medical certificate to that effect. I find that no where in the written statement the union has pleaded that the workman was suffering from T.B. rather the union has taken another plea that the workman met an accident and received injury in his head and chest for which he was under treatment but this plea of the union has not been supported by the workman in his statement before the Enquiry Officer and hence the Enquiry Officer has correctly disbelieved the plea of the workman and hence I find that charge against the workman has been established and the finding of the Enquiry Officer is correct.

Next point for consideration is as to whether the punishment of dismissal from service of the workman is justified or not. In this connection learned lawyer for the union submitted that there is no past adverse entry against the workman during the total service period and the mis-conduct alleged against the workman also does not involve the moral turpitude and hence the punishment of dismissal is shocking and severe and a lesser punishment could meet the ends of justice. On the other hand learned lawyer for the management opposed the contention raised on behalf of the union and submitted that the period of unauthorised absence of the workman is long and therefore no other punishment could be accurate except the punishment of dismissal.

After considering the contrary submissions by both the parties in this regard I considered also the facts and circumstances on the record. It is admitted fact that there is no stigma against the workman in past. It is admitted by the Enquiry Officer that in support of his illness the workman has submitted medical certificate but due to the fact that no prescription submitted supporting the manner of treatment of illness, was disbelieved by the Enquiry Officer. It is admitted also that it was the first instance on the part of the workman to become absent without any leave and hence in my opinion also a lesser punishment could meet the ends of justice. In this view of the matter, in my opinion the punishment of dismissal is shocking and arbitrary to the nature of mis-conduct. Hence the order of dismissal is set aside and the management is directed to reinstate the workman in service but in facts and circumstances of the case without back wages. In this manner the award is passed.

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 16 जनवरी, 2003

का. आ. 565.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय ई.सी.एल. प्रबंधन के संबंध विधियों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल

(संदर्भ संख्या 11/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-01-2003 को प्राप्त हुआ था।

[सं. एल-22012/512/94-आई० आर० (सी. II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 16th January, 2003

S.O. 565.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 15-01-2003.

[No. L-22012/512/94-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

Present : Shri Ramjee Pandey, Presiding Officer.

Reference No. 11 of 1995

Parties : Agent, Tilaboni Colliery of E.C. Ltd.

....Management.

Vrs.

Sh Chota Hopna Majhi & Sh. Dilip BouriWorkman.

Representation :

For the Management : Shri P.K. Das, Advocate.

For the union (workman) : Shri M. Mukherjee, Advocate.

Industry : Coal

State : West Bengal.

Dated the 1st November, 2002

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947, Govt. of India through the Ministry of Labour vide its' Order No. L-22012(512)/94/IR (CM-II) dated 16-2-1995 has referred the following dispute for adjudication by this Tribunal :

"Whether the action of the Management of Tilaboni Colliery PO. ; Ukhra, Dist. Burdwan in dismissing Sh. Hopna Majhi, UG Loader vide their letter No. BA/PD/Dis/2901 dated 21/28-8-91 & dismissing Shri Dilip Bouri, P/Khalasi vide their letter No. BA/PD/Dis/2902 dated 21/26-8-91 is Justified? If not, to what relief are these workman entitled to?"

In response to the summons issued by the Tribunal both the parties appeared through their respective representatives. The management appeared through Shri P. K. Das, Advocate and the union (workman) appeared through Shri M. Mukherjee, Advocate. Both the parties filed their written statement and contested the dispute.

The facts of the case in brief, are that the workman viz. Sh. Chota Hopna Majhi and Shri Dilip Bouri were permanent employees of Tilaboni Colliery under E.C.L. Shri Chota Hopna Majhi was posted as Underground Loader whereas Shri Dilip Bouri was posted as Pump Khalasi. Both the workmen were dismissed by the management from their services by orders dated 21/28-8-91 and 21/26-8-91 respectively after conducting domestic enquiry on the allegation that both the workmen remained absent from their duties without prior information or permission or without any leave from 6-3-91 to 3-5-91 and 29-5-91 to 9-6-91 respectively.

The case of the management in brief is, that the absence of both the workman was unauthorised violating the provision of standing orders as they became absent without prior information or authorised leave. The management served with charge-sheet both the workmen and consequently departmental enquiry was started against both the workmen. The Enquiry Officer reported that charges against the workmen were established and consequently both the workmen were dismissed from their services. The punishment of dismissal is justified and the same has been passed after giving full opportunity to the workmen to defend themselves.

The case of the union (workman) in brief is, that both the workman fell ill and due to their illness they were not able to attend their duties. No sooner the workmen got the charge-sheet and they submitted their reply but without considering the reply of the workmen the management arbitrarily started enquiry without any information to the workmen and the workmen were not given opportunity to place their cases. According to the union no opportunity was given to the workmen to defend themselves and the principle of natural justice could not be complied. Further case of the workmen is that earlier Dilip Bouri was suffering from Low Blood Pressure and once he fell down on the earth while on duty and knowing this fact and even after repeated request Dilip Bouri was not given surface duty. Further case of the workmen is that the punishment of dismissal is hard and disproportionate to the nature of misconduct and hence act of the management dismissing the workmen from services is unjustified and accordingly a prayer has been made to set aside the order of dismissal and direct the management to reinstate the workmen in services with back wages.

Although in the written statement the union has pleaded that no opportunity was given to the workmen to defend themselves but at the time of hearing on the preliminary point of validity and fairness of domestic enquiry the union did not challenge the same rather admitted that there was no invalidity in the enquiry proceeding and accordingly the enquiry proceeding has been held to be valid by order dated 27-11-97.

Both the parties confined their submission on two points, first point placed by the parties is as to whether the finding of Enquiry Officer is based on evidence or not and secondly on the point of quantum of punishment.

As regards the findings of the Enquiry Officer, learned lawyer for the union submitted that there was not sufficient evidence before the Enquiry Officer to come to the conclusion that the charges against the workmen have been established and hence the Enquiry Officer has given wrong findings. On the other hand, learned lawyer for the management submitted that both the workmen appeared before the Enquiry Officer and got their statement recorded and both of them have admitted the charges levelled against them and since the allegation have been admitted by the workmen no further evidence is required.

In view of contrary submissions I perused the enquiry reports and I find that as regard the enquiry against Chota Hopna Majhi, one Sh. P. N. Singh has been examined as a witness of the management and he has supported the allegation made against the workmen. The statement of the workmen viz. Chota Hopna Majhi has been also recorded and he has admitted that he became absent from his duty during the alleged period without any leave or any prior permission due to his illness. With regard to enquiry against Dilip Bouri, I find that no witness has been examined by the management but the Enquiry Officer recorded the statement of Dilip Bouri who has admitted his misconduct and has stated that due to his illness he became absent in the alleged period but he could not submit medical certificate. Since both the workmen have accepted their absence without leave I think that no further evidence is required because admitted fact does not require the proof. Although both the workmen have pleaded that they did not attend their duties due to illness but they could not produce any medical certificate to prove the fact that they were ill. It was the burden on the part of the workmen to prove the fact that their absence was due to illness but they could not discharge their burden and naturally in my opinion the Enquiry Officer correctly came to the conclusion that the charges against the workmen have been established.

No only point for consideration is as to whether the punishment of dismissal is disproportionate and shocking. In this regard learned lawyer for the union submitted that only for absence of the workmen from duty for such a petty time the punishment of dismissal is too hard and severe. On the other hand learned lawyer for the management drew my attention towards the documents filed by the management from which it reveals that in past also the workmen have been charge-sheeted for similar unauthorised absence and they have been punished also. In perused those documents and I find that both the workmen were similarly absent previously also for which they were chargesheeted. This aspect of the matter could not be controverted by learned lawyer for the union and I find that both the workmen are habitual absentees and it is but natural that the management has lost the faith in both the workmen. In case of N.R.C. Ltd. Vs. N.R.C. Employees Union, reported in 2001(91) FLR-933 decided by Bombay High Court, the workman was dismissed for habitual absenteeism and the enquiry and finding of guilt of misconduct was held to be proved by the labour court but the order of dismissal was converted into reinstatement with back wages and in such situation Hon'ble Court held that the Labour Court committed error in interfering with the punishment of dismissal. In my opinion also both the workmen are habitual absentees and I find that the order of dismissal is not shocking and hard. Hence I find that the act of the management, dismissing the workmen, is justified and they are not entitled to any relief. The award is passed in the above manner.

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 20 जनवरी, 2003

का. आ. 566.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन० सी० एल० प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर (संदर्भ संख्या 41/2002) को प्रकाशित करत है, जो केन्द्रीय सरकार को 17-01-2003 को प्राप्त हुआ था।

[सं. एल-22012/79/2000-आई. आर. (सी.-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th January, 2003

S.O. 566.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MCL and their workman, which was received by the Central Government on 17-01-2003.

[No. L-22012/79/2000-IR.(C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Shri S.K. Dhal, Q.S.JS (Sr. Branch)

Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE No. 41/2002

Date of Conclusion of the hearing—

31st December, 2002

Date of Passing Award—2nd January, 2003

Between :

The Management of the General Manager, Orient Area, M.C. Ltd.,

At/Po. Brajarajnagar,

Dist. Jharsuguda,

Jharsuguda-768 216.

1st Party—

... Management.

AND

Their Workman, represented through

The General Secretary,

Brajarajnagar Coal Mines Workers Union (AITC),

At/Po. Orient Valley,

Brajarajnagar,

Dist. Jharsuguda-768 216.

2nd Party—

... Union.

Appearances :

Shri Santosh Kumar Panigrahi,

Legal Inspector,

Orient Area MCL

For the 1st Party—

... Management.

None.

... For the 2nd Party Union.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-22012/79/2000-IR.(CM-II), dated 21-3-2002 :

"Whether the action of the Management of Orient Area of MCL, Brajarajnagar, in dismissing Shri Surender Keot from services with effect from 11-4-1998 is legal and Justified? If not, to what relief the workman concerned is entitled to?"

2. On receipt of the reference sent by the Government of India, the 1st Party-Management has appeared but the 2nd Party-Union has not made his appearance. Notice was sent to the II Party-Union

from this Tribunal but inspite of receipt of the notice, the II Party-Union has not responded and has not have filed Claim Statement. So, there is no scope for the 1st Party-Management to file any Written Statement, Hence, the II Party—Union was set *ex parte*.

3. When the Claim Statement has not been filed and the 2nd Party-Union has not made his appearance it cannot be said that the action of the 1st Party-Management of Orient Area of MCL, Brajaraj Nagar in dismissing the Workman Shri Surender Keot from services with effect from 11-4-1998 is illegal and unjustified. In that case, the 2nd Party-union is not entitled for any relief.

4. Reference is answered accordingly.

Dictated & Correct by me.

S.K. DHAL, Presiding Officer

नई दिल्ली, 20 जनवरी, 2003

का. आ. 567.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय ई.सी.एल. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल (संदर्भ संख्या 82/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-01-2003 को प्राप्त हुआ था।

[सं. एल-22012/54/2000-आई. आर. (सी. II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th January, 2003

S.O. 567.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 82/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 17-01-2003.

[No. L-22012/54/2000-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXUR

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Shri Ramjee Pandey,
Presiding Officer.

Reference No. 82 of 2000.

Parties :

Agent, BMP Group, B.C. Incline Management.

Vs.

Sh. Asit Bouri, U.G. Loader Workman.

Representation :

For the management : Shri P. Goswami,
Advocate.

For the union (workman) : Shri S.K. Pandey,
Chief General Secy. of
Koyala Mazdoor Congress.

Industry : Coal.

State : West Bengal

Dated the 29th November, 2002

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947, Govt. of India through the Ministry of Labour vide its Order No. L-22012/54/2000-IR (CM-II) dated 21-8-2000 has referred the following dispute for adjudication by this Tribunal :

"Whether the action of the Management of B.C. Incline (BMP Group under ECL) in dismissing the services of Sh. Asit Bouri w.e.f. 07-03-1993 was legal and Justified? If not, to what relief Sh. Asit Bouri is entitled?"

2. In response to the summons issued by the Tribunal both the parties appeared through their respective representatives. The management appeared through Shri P. Goswami, Advocate and the union appeared through Shri S.K. Pandey, Chief General Secretary of the Koyala Mazdoor Congress. Both the parties filed their respective written statements and contested the dispute.

3. The facts of the case in brief, are that the workman viz. Sh. Asit Bouri was a permanent employee posted as Underground Loader at B. C. Incline under Sodepur Area of M/s. E.C.L. The workman was chargesheeted on allegation that he became absent from his duty from 29-9-92 to 2-2-93 i.e. for a period of about more than four months and after conducting domestic enquiry the management dismissed him from service on this very allegation and the workman has challenged the order of dismissal.

4. The case of the union (workman) in brief is, that the workman became absent from his duty due to the fact that he became sick and was undergoing treatment at R.M.A. Kanke and the situation was beyond the control of the workman. Although the workman informed the management about his sickness but still he was chargesheeted. After recovery when the workman approached the management with a view to resume his duty he was served with the order of dismissal. It is further stated that the workman neither received the chargesheet nor the notice of enquiry and he could not get opportunity to defend himself and thereby principle of natural justice was not complied and consequently the

order of dismissal is illegal. It is further stated that in any view of the matter the order of dismissal is hard and disproportionate to the nature of mis-conduct and accordingly a prayer has been to direct the management to reinstate the workman in service with back wages.

5. The case of the management in brief is, that the absence of the workman was unauthorised. He neither obtained the sanction of leave nor gave any information to the management regarding his absence and committed the mis-conduct. The workman was charge-sheeted but he could not replay the charge-sheet although the charge-sheet was sent to him through registered post at his home address but the workman refused to take delivery of the letter. Thereafter a departmental enquiry was started after giving notice to the workman. But when the notice was not served the notice was published in a daily wide circulated newspaper styled and known as Pashim Banga Sambad but still the workman did not appear and hence an *ex-parte* enquiry was conducted during which the Enquiry Officer came to the conclusion that charge against the workman was established. After considering the enquiry report and the evidence produced there under the competent authority dismissed the workman from service. It is further stated that the workman became absent for a long period without any information to the management and hence the order of dismissal is justified and the action by the management is also Justified.

6. Although in its written statement the union has pleaded that the workman was neither given charge-sheet nor the notice of enquiry but during hearing on preliminary point of fairness and validity of enquiry proceeding the representative of the union did not challenge the validity and fairness of domestic enquiry rather conceded that he will make submissions on the merit of the case placing reliance on the evidence during enquiry and hence by order dated 26-3-2002 the enquiry proceeding has been held to be valid.

7. Now point for consideration is as to whether the charge against the workman has been established and the finding of the enquiry Officer is correct. In this regard it was submitted on behalf of the union that the absence of the workman was due to his sickness and his absence was justified but after perusing the enquiry report I find that there is no evidence on the enquiry to show that the workman was sick and was undergoing treatment. It is admitted fact that the workman remained absent from his duty during the alleged period and he has not given any justification of his absence and hence the Enquiry Officer has rightly come to the conclusion that the charge against the workman has been established.

8. Next point for consideration is as to whether the punishment of dismissal from service is justified or not. In this regard the representative of the union has submitted that although it has not been proved during enquiry by

evidence that the workman was sick but it is consistent plea of the workman that he became absent from his duty due to his sickness and hence the mis-conduct alleged against the workman is not so serious to warrant the punishment of dismissal from service. He further submitted that except the present allegation the past record of the workman is clear and there is no stigma in his past service and hence the order of dismissal is hard and disproportionate to the nature of mis-conduct. On the other hand, learned lawyer for the management submitted that the charge against the workman has been established and it is a case of long absence and hence order of dismissal is justified. But learned lawyer conceded that past record of the workman is good and there is nothing on the record to show that the workman committed any misconduct earlier also.

9. In view of contrary submissions I perused the enquiry report and the material therewith. The workman was posted as U.G. Loader. In view of the nature of the job of the workman indicated his absence from duty was not dangerous either for the system or the property of the management. It is admitted fact that past record of the workman is good and hence in my opinion also the punishment of dismissal from service is disproportionate to the nature of mis-conduct and the same is shocking. A minor punishment imposed could met the ends of justice. In this view of the matter I find and hold that the action of the management of B.C. Incline (BMP Group) under ECL in dismissing the service of Shri Asit Bouri was not justified and hence the order of dismissal is set aside. The management is directed to reinstate the workman in service but considering the fact that the charge of long absence of more than four months has been established, without back wages in the above manner the award is passed.

RAMJEE PANDEY, Presiding Officer.

नई दिल्ली, 20 जनवरी, 2003

का.आ. 568.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय ई.सी.एल. प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण आसनसोल (संदर्भ संख्या 66/1999) को प्रकाशित करता है, जो केन्द्रीय सरकार को 17-01-2003 को प्राप्त हुआ था।

[सं. एल-22012/365/98-आई. आर. (सी. II)]

एन.पी. केशवन, डैस्क अधिकारी

New Delhi, the 20th January, 2003

S.O. 568.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 17-01-2003.

[No. L-22012/365/98-IR (C-II)]

N.P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

Present : Shri Ramjee Pandey,
Presiding Officer

Reference No. 66 of 1999

Parties :

Agent, Nimcha Colliery of ECL Management.

Vs.

Sh. Lochan Nayak, Ex-Wagon Loader Workman.

Representation :

For the Management : Shri P. Goswami,
Advocate
For the Union (workman) : Shri R. Kumar,
General Secy. of
Koyala Mazdoor Congress

Industry : Coal

State : West Bengal

Dated the 29th November, 2002

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947, Govt. of India through the Ministry of Labour vide its Order No. L-22012/365/98/IR (CM-II) dated 22-6-2000 has referred the following dispute for adjudication by this Tribunal :

"Whether the action of the Agent of Nimcha Colliery PO: Jay Kay Nagar, Pin 713337, Distt. Burdwan was justified in dismissing the services of Sh. Lochan Nayak, Ex-Wagon Loader? If not, to what relief is the workman concerned entitled?"

2. In response to the summons issued by the Tribunal both the parties appeared through their respective representatives. The workman appeared through Shri R. Kumar, General Secretary of the Union and the Management appeared through Shri P. Goswami, Advocate. Both the parties filed their respective written statements and contested the dispute.

3. The facts of the case in brief, are that the workman viz. Shri Lochan Nayak was a permanent employee of Nimcha Colliery under ECL and he was posted as Wagon loader. The workman became absent from his duty from

2-2-96 to 18-3-96 for which he was issued chargesheet and after conducting domestic enquiry the management dismissed the workman from service which has been challenged by the workman.

4. The case of the Union (workman) in brief, is that the workman concerned went on authorised leave from 1-2-96 to 3-2-96 but he fell ill and could not attend his duty thereafter. It is further stated that the workman was in the clutch of money lenders due to which he submitted application to the management for his transfer from Nimcha Colliery to any other colliery as he was apprehending danger of his life there but in the mean time the workman fell ill and became mentally disturbed due to which he could not attend his duty. Although the workman sent information to the management regarding his absence but in spite of his request the management issued a chargesheet. It is further stated that the ex-parte enquiry was conducted and the workman was not given opportunity to defend himself violating the principle of natural justice, hence the enquiry report is illegal. It is further stated that in view of the matter the punishment of dismissal from service is hard and not justified and due to the fact that the workman lost the service, he is now facing starvation and hence a prayer has been made to reinstate the workman in service.

5. The case of the management in brief, is that the workman was in habit to become absent from his duty without permission and on several occasion he was punished for similar act of misconduct. Again the workman became absent from his duty without any information to and permission of authority of the management and hence a chargesheet was issued but the workman could not reply the chargesheet and hence a domestic enquiry was started. Although the enquiry Officer sent notice for enquiry to the workman repeatedly but the workman did not appear before the Enquiry Officer and naturally the Enquiry Officer concluded ex-parte enquiry and submitted the report with his finding that the charge against the workman has been established. After considering the enquiry report and the materials therewith the competent authority came to the conclusion that the charge against the workman was established and hence considering this aspect as well as the fact that the workman was a habitual absentee dismissed him from service. The order of dismissal is justified and it does not require interference by this Tribunal.

6. Although in its written statement the Union has pleaded that the enquiry was done unfairly ex-parte without giving the workman proper opportunity but during hearing on the preliminary point of validity and fairness of enquiry proceeding the union did not challenge the same rather admitted that the enquiry was conducted in knowledge of the workman and hence by order dated 2-9-2002 the enquiry proceeding has been held to be valid.

7. Now point for consideration is as to whether the charge against the workman has been established and finding of Enquiry Officer is correct. In this regard learned

lawyer for the management submitted that the Enquiry Officer recorded the statement of the witnesses of the management and examined the document produced by the management and then came to the conclusion that the charge has been established and hence the finding of the enquiry is based on evidence and the same is correct. Although the representative of workman challenged the correctness of the finding of the Enquiry Officer but could not point out any infirmity. In view of contrary submissions I perused the Enquiry report and the evidence produced during the same. I find that Shri M. Shaw, Clerk of the management was examined by the Enquiry Officer who on the basis of Form 'E' Register deposed that the workman became absent from his duty since 2-2-96 without any leave and information and despite the fact that the management sent a registered letter directing the workman to join duty but he failed. The Enquiry Officer has considered the statement of the witness and the register produced by him and hence I find that the finding of the Enquiry Officer is correct. It is also admitted by the union that the workman was absent from duty without any leave and the absence has not been explained by the workman and hence the absence of the workman was unauthorised and I do not find any infirmity in the enquiry report.

8. Next point for consideration is as to whether the punishment of dismissal from service is justified. In this regard learned lawyer for the management submitted that the absence of the workman was unauthorised and considering the past history of the workman of being habitual absentee the punishment of dismissal is not severe rather the punishments justified. On the other hand it was submitted on behalf of the union that except the fact that the workman was absent from his duty from 2-2-96 to 18-3-96 no previous absence has been proved nor the same forms the part of enquiry because the allegation of previous absence has not been incorporated in the chargesheet and the fact of the previous absence could not be considered while awarding punishment to the workman. He further submitted that no second show-cause notice was issued to workman placing the facts of previous absence and hence the consideration of the same while awarding punishment is not legal. In view of contrary submissions in this regard I perused the charge-sheet, the materials collected during the enquiry and the enquiry report. The allegation of past absence has not been incorporated in the chargesheet. There is nothing on the record to show that the workman was punished or given charge-sheet for any previous absence or any other type of misconduct. It is also clear that the workman was not given second showcause notice disclosing the intention of the management to consider the past absence at the time of awarding punishment and hence the previous absence, if any, can not be considered for awarding punishment. In taking such view I get support from the case of *State of Mysore Vs. K. Mauche Gowda* reported in AIR 1964 S.C. 506.

9. In view of the above discussion only misconduct on the part of the workman is that he became absent from his duty from 2-2-96 to 18-3-96. From the written statement of the union it appears that the workman was in service since the year 1973 and he worked with the management for more than 23 years but no other stigma against the workman in the past has been brought on the record. So considering the nature of misconduct in my opinion the order of dismissal is disproportionate and shocking and I find that action of the management in dismissing the services of the workman is not justified. Hence the order of dismissal is set aside and the management is directed to reinstate the workman in service awarding a minor punishment of stoppage of one increment. Considering the fact that the misconduct of the workman has been established and also considering his previous record I am not inclined to allow back wages. In the above manner the award is passed.

RAMJEE PANDEY, Presiding Officer

नई दिल्ली, 20 जनवरी, 2003

का. आ. 569.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलकाता (संदर्भ संख्या 04/1981) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-01-2003 को प्राप्त हुआ था।

[सं. एल-42011/44/79-डी.II(बी.)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 20th January, 2003

S.O. 569.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 04/1981) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 17-01-2003.

[No. L-42011/44/79-D.II(B)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 04 of 1981

Parties : Employers in relation to the management of
Food Corporation of India

AND

Their Workmen

Pre sent :

Mr. Justice Bharat Prasad Sharma
...Presiding Officer

On behalf of : Mr. K.K. Chattopadhyay, Advocate
the Management

On behalf of : Mr. M. Dutta, Advocate.
the Workmen

State : West Bengal

Industry : Food

Dated the 9th January, 2003.

AWARD

By order No. L-42011(44)/79-D.II(B) dated 27th December, 1980 the Central Government in exercise of its powers under Section 10(1)(d) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Joint Manager (Port Operation), Food Corporation of India, Calcutta in dismissing Shri Niranjan Das Gupta and forty-nine other workmen from service as per office order dated 28-3-1974 is legal, proper and justified? If not, to what relief are the workmen entitled?"

2. The present reference has been made on the basis of the dispute raised by the union, known as Regional Director (Food) Employees' Association, Eastern Region, Calcutta regarding termination of service of 50 persons by the management of Food Corporation of India.

3. From the written statement of the union it appears that the Food Corporation of India (FCI in short) was formed by Act 37 of 1964 of the Parliament of India. The object of the formation of the FCI was procurement, storage, distribution of food-stuff and such ancillary matters. The Corporation has got four Administrative Units, known as Eastern Zone, North Zone, Western Zone and Southern Zone, each headed by a Zonal Manager with Regional Managers, Joint Managers (Port Operations) and District Managers vertically below and the Head Office at the Apex in New Delhi with the Chairman/Managing Director as its head with a Board of Directors to formulate the policies. The Head Quarter of the Eastern Zone is situated at Calcutta. From effectively discharging the functions, the Corporation employs large number of workmen, nearly one lakh, and there are about 24,000 workmen in Eastern Zone, out of which about 15,000 are employed on monthly salary basis and described and designated as clerical, operational, technical, engineering and subordinate staff. It is stated that the same workmen are subject to statutory rules and regulations, known as Food Corporation of India Staff Regulation, 1971 as amended from time to time. It is further stated that the staff in the Eastern Zone are organised under the union, known as Regional Director (Food) Employees' Association, Eastern Zone which happens to

be an unit of All India Trade Union of Food Corporation Employees and workers, registered under the Indian Trade Unions Act, 1926. It is further stated that in usual course the vacancies are filled up by inviting names of suitable and qualified candidates from the Regional Employment Exchange, Calcutta for the posts of Assistant Grade-III (Ministerial) and Typists. Accordingly, the Corporation appointed altogether 70 workmen including 35 as Assistant Grade-III and 35 as Typists through a selection committee composed of 5 members. Such appointment was made on 01-05-1973. It is further stated that Shri R.C. Dutta the then Senior Assistant Manager (Administration-II) was entrusted with the charge of conducting typing test held for selection of Typists. It is also further stated that the selection committee took interview of about 1,079 candidates sponsored by the Regional Employment Exchange, Calcutta and after going through all the procedures and formalities required for such appointment, selected 70 workmen for appointment. It is further stated that the Joint Manager (Port Operation) happened to be the appointing authority of the concerned workmen under the FCI Staff Regulation, 1971. It is further stated that with malafide motive and purpose without assigning any reason and without any sanction in law and authority, the aforesaid 70 workmen were asked by letters issued by the District Managers under the direction of the Zonal Manager, East to report to the Senior Deputy Manager (Personnel) in the Office of the Zonal Manager, East, Calcutta to appear for re-test in case of Typists and re-interview for the posts of Clerks. It is further stated that with a design to find some of the workmen as inefficient on the plea, overt and covert, and to make room for others to whom the Zonal Manager, East wanted to provide jobs, though earlier found unsuitable and rejected by the Selection Committee, without any precedent or any provision in the Staff Regulation, conducted such mischief illegally and immorally in trapping these persons in the name of re-selection and ultimately got rid of them. It is further stated that the re-selection committee, as stated above, was composed of some officers who were selected for this work without any authority and outside the scope of PCI Staff Regulation. It is also stated that there was no material before the said committee to declare 50 workmen out of the aforesaid 70 persons as inefficient and unfit for the Cooperation and to dismiss them with effect from 01-04-1974 by office order dated 28-07-1974. It is stated that the particulars of the said 50 workers is enclosed, which also happens to be the list supposed to be the part of the schedule of this reference. It is further stated that one Shri Manoranjan Sharma, who was presumably declared inefficient and unfit by the re-selection committee and was dismissed on that basis by the Corporation was on authorised leave and was out of the State of West Bengal on the date when the interview was taken for the second time after his appointment as above and did not receive any information in this regard and as such he had no occasion to appear before the said

re-selection committee. It is stated that in fact this committee could not be used to speak against the said Shri Sharma in any manner and yet he was dismissed as inefficient without giving him any opportunity of self-defence. It is stated that this depicts the malafide motive and purpose of the Corporation. It is further stated that on the basis of the adverse verdict against the 50 workmen by the second selection committee, dismissal order with effect from 01-04-1974 and appointment of 50 workmen in their place took place. It is stated that if the incidents are read in sequence, it will be evident that the appointments of these workmen in 1974 in subsequent stages was already decided and to effect the same only the other things were taken recourse to and nothing could be more malafide than this. It is further stated that the malafide of the Corporation in selecting these 50 workmen can be evident from the list attached and stated in the remark column in Annexure-D. It is stated that the remark column will show that 48 persons had appeared before the selection committee when the selection of the aforesaid 50 persons were made and they were appointed on 01-05-1973, but they were not found suitable and qualified. It is further stated that immediately after dismissal of the aforesaid 50 workmen with effect from 01-04-1974 and before 50 other persons appointed in the resultant vacancies on 27-04-1974 and also at subsequent stages, series of representations were made to the Corporation by the unfortunately victimised 50 workmen against their illegal dismissal but nothing could be done. It is also further stated that a series of letters including telegrams and savingrams were addressed to different authorities by the concerned workmen and in some cases by their family members and gurdians protesting against their dismissal in veiled manner without assigning any reasons. It is stated that they met this fate probably because they had jointed the Association as its members and the Association was agitating against the Corporation over some legitimate grievances in most peaceful and constitutional manner. It is stated that dismissal was made also on account of the fact that the management wanted to make room for those whom on the earlier occasion the selection committee had not found suitable. It is further stated that the union by a letter dated 25-05-1979 made a specific allegation to the Regional Labour Commissioner (Central), Calcutta against the malafide conduct of the Corporation and exposed the hollowness of the Corporation in their stand in regard to their action against the concerned 50 workmen. It is stated that the representations in this connection can be relied upon for exposing the game of the management that the management by forming illegal re-selection committee constituted by the yes officers of the Zonal Manager, terminated the services of these helpless 50 persons and those persons who constituted the re-selection committee were rewarded in various manners by the management for their illegal work done to help the management. It is further stated that the union also wrote another letter dated 11-06-1980 and made specific

allegation to the Secretary to the Govt. of India, Ministry of Labour and copies of this letter were endorsed to the other authorities including the Prime Minister of India, the Minister Incharge, Ministry of Labour, Govt. of India, the Minister Incharge, Ministry of Agriculture and Food, Govt. of India and the real motive of the Corporation were disclosed in the letter. It is stated that from the aforesaid letters the action of the Corporation against these said 50 workmen appears to be victimisation with malafide intention and it also appears to be in contravention of the provisions of the Staff Regulation and the provisions of the Industrial Disputes Act. It is further stated that it was also disclosed that the termination effected by the Corporation in regard to the concerned 50 workmen was neither retrenchment, nor discharge simpliciter, nor for any proven misconduct, but for alleged inefficiency amounting to dismissal. It is stated that in the instant case, the workmen were not proceeded against, nor there was any stigma attached to them and there was also no report received by the management regarding their inefficiency. It is also further stated that the registration cards of the concerned 50 workmen issued by the Employment Exchange were also taken by the management from them and were withheld with malafide intention. It is stated that the union started siding with the stand taken by these workmen regarding their illegal termination of service and took-up the matter with the authorities. It is stated that when persuasion and representations of the individual workmen failed to achieve any desired result, the union took up the matter and wrote to the Corporation as referred to above, but the same also failed to produce any result. Thereafter the matter was taken-up before the R.L.C.(C), Calcutta for intervention and the conciliation proceeding started and joint meetings were held. It is stated that the conciliation proceeding also could not give any result because of the adamant attitude of the management and, accordingly, the failure report was submitted and the reference was made. It is further stated that earlier to this reference the Association had received an ill-conceived letter dated 08-07-1980 from the Under Secretary to the Govt. of India, Ministry of Labour stating therein that the dispute could not be referred to for adjudication and when the Association made representation against this decision to the Ministry of Labour, Govt. of India, the Ministry of Labour reconsidered the issue and decided to refer the dispute to this Tribunal and also wrote to the Ministry of Food to look into the cases of the effected workmen and to try to bring out an amicable settlement. In this letter the Ministry of Food was also asked to furnish their comments, if there is any success in the amicable settlement. It is stated that the Corporation cannot escape its responsibility of justifying the dismissal or termination of the services of 50 workmen and the plea of the management that they were just probationers with 11 months of service, their services could be terminated cannot be acceptable. Accordingly, the union has stated that the action of the management regarding termination of

the service of the 50 workmen concerned cannot be justified and the same is justiciable. The union has also tried to refer to some decisions of the Hon'ble Supreme Court in some cases in support of their contention that the action of the management in this case is *illegal, invalid, unjustified, motivated and malafide* and ultimately the prayer has been made that these workmen deserve to be reinstated in service with full back wages and all other facilities.

4. A written statement was also filed on behalf of the Corporation. It has been stated on behalf of the management that in the written statement of the union various statements and allegations have been made which are *baseless, incorrect and misleading*. The management has divided the written statement into two parts. In Part-I it has dealt with the preliminary points relating to the jurisdiction of the Tribunal to entertain the reference and Part-II deals with the merit of the case and prayer was also made to decide the preliminary issues of Part-I first before going into the merit of the case and accordingly the matter was heard and four preliminary points were formulated by the Tribunal by an order dated 01-03-1983 and after hearing both the parties the points were decided by an order dated 11-03-1986. The first point to be considered was "This second reference is bad in law because the Food Corporation of India was not given any opportunity to be heard before making the reference." So far as this point is concerned, it was held by the Tribunal that the Tribunal was not competent to decide this matter. So far as the second point is concerned, it is "The Association in question which is espousing the cause of the concerned 50 workmen has not *locus standi* and no representative character and hence it should be held that the industrial dispute does not exist." So far as this point is concerned, the Tribunal held that the union named in the order of reference espoused the cause of the workmen and it has the *locus standi* and representative character and, therefore, this dispute raised happens to be an industrial dispute as contemplated in Section 2A of the Act. The third point was "No dispute having been raised by the Association with the management, the reference should be held to be illegal." In this regard, it was held by the Tribunal that from the materials considered it inferred that the dispute referred to the Tribunal was raised by the Association with the management of F.C.I. and there was nothing illegal in the order of reference. The fourth point is "The present reference being a delayed reference having been made in 1981 in respect of the dispute of the concerned workmen in 1974 should be held to be invalid." Regarding this point, it has been held by this Tribunal that the conclusion is inescapable that the preliminary point has no substance or merit and accordingly, the matter was disposed of.

5. However, the management went in writ petition before the Hon'ble Calcutta High Court in this regard and the Hon'ble High Court in its order dated 30th January

1990 allowed the writ application and impugned order of this Tribunal was set aside and also held that the reference is declared to be *illegal, inoperative, null and void*. When a copy of this order the Hon'ble High Court was produced and it was submitted on behalf of the management that since the reference has been pushed, the reference is not fit to proceed. Accordingly, an Award to this effect was passed by this Tribunal on 09-11-1999. However, it appears that subsequently the aforesaid decision of the Hon'ble High Court in a Single Bench was brought in appeal before the Division Bench of the Hon'ble Court and the Hon'ble High Court in its Division Bench by a judgement dated 04-08-2000 set aside the aforesaid judgement of the Single Bench and ordered that the order passed by the Tribunal is restored. Accordingly, the reference was restored and the hearing proceeded.

6. So far as the allegations and statements made in the different paragraphs of the written statement of the union, the management has dealt with the same parawise. It is stated that so far as the statements in Paragraphs 1, 2 and 3 are concerned, the same are matters of record and except for that the allegations are denied. With reference to paragraph 4 it is said that the management disputes the statement that all the staff of the Eastern Zone are organised under this union. It is stated in this connection that the said union has hardly any following and the union under reference has no *locus standi* and representative character to espouse the cause of the workmen. However, this point has been dealt with in the order on the preliminary points of record and has been answered in favour of the union. Regarding paragraphs 5 and 6 it is stated that the same are also matters and anything contrary or inconsistent to the same are denied. So far as paragraphs 7, 8 and 9 are concerned, the same have been categorically denied. It is further stated that in the year 1973 one Shri P. K. Sengupta was functioning as Joint Manager (Port Operation) in the office of the Joint Manager, Food Corporation of India, Calcutta and as Head of Office he was competent authority for making appointments to category-III posts, like Assistant Grade-III (Ministerial) and Assistant Grade-III (Typist). It is further stated that in matters pertaining to administration, Shri Sengupta was assisted by Shri A. K. Das, Senior Deputy Manager and he was handling matters relating to selection and appointment to the aforesaid posts. It is further stated that in order to fill-up vacancies of Assistant, Grade-III (Ministerial) and Assistant Grade-III (Typist) the Regional Employment officer, Calcutta was requested by Shri A.K. Das, Senior Deputy Manager through two requisition letters dated 03-04-1973 to sponsor the names of candidates having the requisite qualification and in response to these two requisitions the Regional Employment Officer sponsored 243 names for AG-III(M) and 434 names for AG-III(T), the total being 668 candidates and the names were forwarded through 5 separate lists dated 12-04-1973, 19-04-1973, 21-04-1973, and 23-04-1973. It is further stated that a supplementary list of 33 candidates

containing 17 names for AG-III(M) and 16 for AG-III(T) was forwarded by the Regional Employment Officer by a letter dated 26-04-1973/30-04-1973 in compliance of D.O. Requisition sent to him by Shri A.K. Das on 23-04-1973. It is also further stated that in order to make selection out of large number of candidates sponsored by the Employment Exchange, a selection committee consisted of Shri P. K. Sengupta as Chairman and Shri A. K. Das and Shri M. K. Nag as members was formed. It is further stated that in the case of ministerial candidates selection was made on the basis of oral interview and with regard to Typists the candidates were first put to a typing test for five minutes duration to test their speed and accuracy. Further it is stated that subsequently the candidates who were considered to be qualified in the typing test were called for oral interview and finally selection was made accordingly. It is also stated that the marks were recorded on the interview list by Chairman, Shri P.K. Sengupta. It is also stated that the typing test were entrusted to Shri R. C. Dutta, Senior Assistant Manager assisted by Shri B. Dhar and Shri P. K. Banerjee and the same were conducted from 25th to 30th April, 1973 in two separate cabins in batches. It is stated that selection lists were drawn up by the selection committee for each day eventually the minutes of the selection committee were drawn for AG-III(M) on 30th April, 1973 and for AG-III(T) on 22nd May, 1973. It is also stated that the final selection list for AG-III(M) considered of 66 names and out of which 42 persons were to be appointed against immediate vacancies, while the rest 24 were kept in the waiting list. It is also stated that actually 39 out of 42 candidates were appointed, because 3 candidates were not given appointment though selection memos were sent to them. It is further stated that out of 38 candidates one candidate was a departmental candidate and two others were sports candidates and the remaining 35 were from amongst the candidates sponsored by the Employment Exchange. It is further stated that out of 38 ampaneled Typist candidates, 36 were appointed, while appointment was not given to 2 other candidates. It is further stated that complaints of irregularities in the selection of AG-III(M) and AG-III(T) were received by the Head Office of the F.C.I. which directed the Zonal Manager, Calcutta to review the entire selection regarding the appointment made by the Joint Manager (Port Operation), Calcutta. It is further stated that the matter of irregular appointment was investigated into by Shri K.S. Basin, Deputy Manager, Flying Squad of the FCI Head Office and it transpired that the selection and appointment of candidates were done in irregular and fishy manner. It is further stated that two lists of 134 candidates and 98 candidates for AG-III(M) were forwarded by Employment Exchange on 19th and 21st April, 1973. It is also further stated that a list of 31 candidates, i.e., 16 for AG-III(M) and 15 for AG-III(T) was sent by the Employment Exchange on 28th April, 1973 at 3.30 P.M. by hand and this list of 31 candidates omitted two names which were later sent by the Employment Exchange on

30-04-1973. It is further stated that the candidates were interviewed between 24th and 30th April, 1973 and 22nd and 29th April, 1973 were Sunday. It is stated that since the list of bulk candidates was sent to the Joint Manager's Office on 21st and 28th April, 1973, there was hardly any time between the issuance of notice for interviews and the dates on which interviews were held and so there was no sufficient time for the candidates to appear at interview. It is also further stated that on 28-04-1973 the Employment Exchange had forwarded a list of 31 candidates which was delivered to the Joint Manager at 3.30 P.M. and the next day, i.e., 29th April, 1973 was the Sunday and, therefore, there was absolutely no time for issuing the notices calling the candidates for interview. It is also stated that two names out of the list of 31 candidates were subsequently sent on 30-04-1973. It is stated in this connection that the selection of AG-III(M) candidates from this list was called on 28-04-1973 which revealed that 11 candidates appeared for interview out of 17 candidates sponsored and all the 11 candidates were selected including the one whose name was sponsored on 30th April, 1973. It is also stated that in similar manner for vacancies of AG-III(T) 15 candidates were sponsored by the Employment Exchange on 28-04-1973 and one name was sent on 30-04-1973. It is stated that the typing test was taken on Sunday the 29th April, 1973 and interview was held in the evening on the same day. It is also stated that out of 15 candidates 11 candidates appeared for typing test, out of which 9 qualified and in the interview 8 of these candidates were selected including the one whose name was sponsored on 30th April, 1973. It is stated that though interview for Typists was held on 30th April, 1973, there was no typing test on that date. So, the person who had no scope to sit for typing test on 29th April, 1973 was also selected. In this regard it is stated that the candidates got themselves engaged in a collusive manner by taking recourse to fraud. It is further stated that the case was then referred to the Central Bureau of Investigation and the C.B.I. advised the Corporation to get the persons selected to have tested for typing and accordingly the Secretary, Public Service Commission, West Bengal was approached for arranging the tests of Typists, but the public Service Commission suggested that the Typists be tested at the Goenka College of Commerce, Calcutta and accordingly the Typistes were tested and 7 candidates out of 35 were found qualified and were retained in service. It is stated that as regards testing of AG-III(M) the board comprising Joint Manager (Legal) who happened to be a member of the West Bengal Higher Judicial Service on deputation and Joint Manager (P.O.) and another was constituted and during interview 25 of 39 candidates were found unfit. Thus 53 persons were altogether found disqualified and accordingly they were removed from service with effect from 1st April 1974. It is further stated that while action was taken with bonified intention and in public interest, its fairness is self-evident from the fact that the tests were conducted by an outside agency

unconnected in any ways with the Corporation. It is further stated that the Corporation made selection by a body composed of persons having independent entity. Further, it is stated that the delinquent officers who were involved in making these collusive appointments were also punished by the Corporation. It is stated that the penalty of removal from service was imposed on Shri B. Dhar, Assistant Grade-I in the office of the Joint Manager (Port Operation) and Shri P. K. Sengupta who was working as Senior Deputy Manager was awarded penalty of censor. Further, it is stated that Shri S. N. Biswas, Assistant Manager was given punishment of stoppage of increment for 2 years and Shri A. K. Das, Senior Deputy Manager (General) was proposed to be given a penalty of compulsory retirement from service and accordingly a show cause notice was served upon Shri Das, against which Shri Das obtained ad-interim injunction and subsequently he died on 08-07-1979. It is stated that the aforesaid punishment gives an account of the extent of involvement in collusive acts of giving appointments as well as the gravity of the misconduct committed. It is stated that there was no malafide motive or purpose in asking 70 workmen to report to Senior Deputy Manager (Personnel) and it was within the right of the corporation to give such directions. It is stated that the collusive way of appointment and getting appointment become apparent subsequently on the investigation conducted by the Corporation. So, there cannot be any malafide motive and purpose of asking 70 workman to report to Senior Deputy Manager (Personnel) as, alleged, nor there was absence of authority or sanction in such action. It is further stated that it is emphatically denied that there was a design to find some of the 70 workmen as inefficient to make room for others whom the then Zonal Manager wanted to provide job, as alleged. It is also denied that the selection committee comprised of the yes-men of the Zonal Manager. It is stated that if appointment is secured in collusive way, as in the present case, where the dismissed workmen as well as the delinquent officers acted dishonestly, it is open to the authorities of the Corpn. to verify the credibility and suitability of a candidate having got appointed by practising fraud and any such action cannot be contrary to the objective and purpose of FCI Staff Regulation, 1971. It is asserted that the management is the best judge as to the suitability of the person which cannot be questioned. It is further stated that the extent of indiscipline has assumed such abnormal proportion that the concerned officers are hesitant to express their opinion about the unsuitability of a candidate being apprehensive of their personal security and safety. It is denied that the retesting and re-selection was a planned affair calculated to do mischief. It is also denied that there was no material before the said committee to declare 50 out of 70 workmen as inefficient and unfit and to dismiss them with effect from 01-04-1974 and the Corporation craves leave to refer to and rely upon the material documents to establish bonafide of the action taken by the Corporation. So far as the

allegations in paragraph 10 of the written statement of the union are concerned, the same are denied by the management and the union is put to strict proof of it. Similarly, the allegations in paragraph 11 are also denied. It is stated that it is denied that the appointment of the workmen in 1974 and the subsequent stages was already decided and to effect the same, the other things were taken recourse to and the same was malafide, as alleged. It is stated that the said allegations have been made to make out a so-called case of malafide against the Corporation. So far as the statements in paragraph 12 of the written statement are concerned, the same are denied. It is stated that since arrangements were made to get personal candidates selected on 01-05-73 in collusive way by saying another candidates unfit without being actually proved unfit, the Corporation did not do anything irregular by selecting candidates amongst earlier rejected once by selecting legally and impartially. So far as the allegations in paragraph 13 is concerned, the same are denied and it is denied that the dismissal of 50 workmen was illegal. It is stated the concerned workmen had procured employment in collusive manner striking at the root of the integrity of an employee. So far as the allegations in paragraph 14 are concerned, the same are denied and it is denied that the dismissal was effected in a valid manner or without assigning any reason. It is stated that the concerned workmen dismissed were very well aware of the collusive manner in which they got appointment as well as their failure to come out of the interview and in case of typists in the tests conducted by the independent authorities. It is further stated that the allegations regarding alleged membership of the Association is totally baseless and the allegation and plea to the effect that the dismissal of the concerned workmen was effected to make room for those whom the then Zonal Manager wanted to provide job for personnel reasons are totally false, motivated and afterthought to make out a case for the present reference. It is stated that the whole process of screening after a prima facie case of collusive appointment was done in unbiased and impartial manner. Regarding contents of paragraph 15 it is stated that the same are denied. It is stated that in dismissal of the 50 workmen there was no malafide conduct on the part of the Corporation and it is denied that re-selection committee composed of yes-officers, as alleged or that the said officers were rewarded by illegal and undue promotion and other means for obliging the then Zonal Manager in his self aggrandisement as alleged. It is also stated that the allegation made in the letter dated 22/25-05-1979 are totally false and distortion of facts. It is stated that the case of the concerned workmen is not that of retrenchment, but dismissal consequent upon commission of gross misconduct of getting appointment in collusive manner. Regarding statement in paragraph 16 it is stated that those are matters of record and any statement which is contrary thereto and inconsistent is denied. It is stated that the

concerned cases are not of retrenchment, but dismissal effected after through investigation into the matter and hence the allegation regarding irregularity or motive does not arise. It is also stated that the allegation regarding trickery and chicanery of the Corporation is baseless and the allegations in letter dated 26-05-1980 are also baseless. Regarding the contents of paragraph 17, it is stated that the statements are denied. It is stated that the stand in the Annexures 'G' and 'H' have no applicability and validity whatsoever. So, it is denied and disputed that the action against the 50 workmen amounted to victimisation and mala fide act of the management. It is also denied that the FCI Staff Regulation was violated and circumvented by the claver device to the prejudice of the 50 workmen with ulterior motive of then Zonal Manager, as alleged. It is stated that the provisions of Section 25F of the Industrial Disputes Act, 1947 have no applicability in as much as no retrenchment of the 50 workmen was effected and the contention to this score is misconceived. It is stated that there was no perverse motive behind the dismissal from service and the dismissal was on account of inefficiency and incompetency of these persons. It is also further stated that the Employment Exchange Cards of the concerned 50 workmen were required to investigate into the matter and as such the same were not returned to these candidates. It is stated in this connection that once the name is registered in an Employment Exchange, the question of registering the name afresh does not arise and, therefore, all allegations in this regard are connected. It is stated that the allegations made in paragraph 18 are also denied and it is denied that the attitude of the Corporation towards the association was ever stiff, as alleged. So far as the contents of paragraph 19 are concerned, the same are also denied and it is denied that the Corporation ever adopted adamant, unreasonable and anti-labour attitude or policy as alleged. Regarding the contents of paragraph 20 it is stated that the same are matters of record and any statement which is contrary thereto or inconsistent is denied. It is further stated that the contentions put forward in paragraph 21 are also disputed. It is stated that the Association has failed to put forward any contention whatsoever and terming the determination of employment as dismissal/termination/retrenchment is illegal in absence of specific pleading. It is further stated that the cases cited in the written statement are not applicable in the present case and it is stated that the dismissal from service cannot by any stretch of imagination be equated with retrenchment as has been sought to be made out by the Association. It is stated that in the facts and circumstances of the case the law of retrenchment has no applicability and hence the question of ignoring or violating the same does not arise. It is stated that the through investigation made into the matter leaves little scope for further chargesheet, which would have been nothing but empty formality. It is stated that the workman by getting appointment through illegal means lost faith

and confidence of the management and rendered themselves unfit to be retained in employment. It is also denied that the Corporation has failed to produce miserably anything tangible to justify the action of removal of the workmen from service and it is stated that all stages the Corporation laid bare all facts and proved the bonafide of the action taken. All other allegations are simply denied as untrue and baseless and it is stated on behalf of the Corporation that the Tribunal be pleased to hold the issue under reference to be not maintainable in any event and the action of the Corporation in dismissing the concerned workmen should be held to be legal, valid and proper.

7. Both the parties have adduced evidence, oral as well as documentary. Several documents have been marked on behalf of the management, Ext. M-1 is the Constitution of the Union. Ext. M-2 series are the appointment letters issued to the persons concerned at their initial appointment. These letters are dated 30th April, 1973. The appointment letter gives so many terms to the persons appointed. The Condition No. 1 is that the post is purely temporary and terminable at any time without any notice or assigning any reason. Condition No. 2 says that he will be on probation for a period of one year from the date of his appointment, unless the appointment is terminated earlier and Condition No. 10 says that he will have to qualify in any test prescribed by the competent authority during the period of probation and their confirmation will be subject to passing such test. Ext. M-3 series are the termination letters in the form of Office Orders dated 28th March, 1974. The letters say that the concerned workman is discharged from service with effect from the forenoon of 1st April, 1974 and in lieu of 30 days notice, he will be paid one month's pay under Regulation 15(3)(b) of the Food Corporation of India Staff Regulation, 1971. Accordingly the candidates were directed to receive their payments on 1st of April, 1974. Ext. M-4 is a letter purported to have been written by one Suba Dutta of Dum Dum to the Editor of Hindusthan Standard, Calcutta. In this letter some specific allegations were made regarding the corrupt practices adopted by both the Employment Exchange and the members of the committee appointed for making selection of the candidates. It is dated 01-05-1973, Ext. M-5 is the notings of the S.D.M. North of F.C.I. regarding the matter. It appears that when a copy of the aforesaid complaint was received, enquiries were made in the matter and it has been mentioned that some of the persons involved have also been punished by F.C.I. Ext. M-5/1 is a confidential noting of S.D.M. North dated 06-09-1973. The note was addressed to the Senior authority regarding This selection. Ext. M-5/2 is the investigation report of one Shri K. S. Bhasin, Deputy Manager, Flying Squad who appears to have detailed enquiry in the matter and has come to the conclusion that some of the allegations appeared to be correct. Ext. M-6 is also a secret letter issued by an officer of FCI to the Superintendent of police S.P.E., C.B.I., Calcutta with copies to D.I.G., C.B.I. and

Joint Manager, Vigilance of F.C.I. Through this letter request was made to C.B.I. to investigate into the scandal reported. Ext. M-7 is copy of a letter from S. Dutta, Zonal Manager (East), F.C.I. to Shri J. S. Arora Joint Manager (Port Operation) of FCI, Calcutta. It appears that in this letter dated 28-03-1974 suggestion was given that the probationers who were not found fit should be discharged from service after paying one month's pay in lieu of 30 days notice.

8. So far as the documents of the union are concerned, Ext., W-1 series are the counterfoils of the receipts of the members of the union. Ext., W-2 series are the applications filed by the individual members to the union for enrolling them as the members of the union. These are 48 in number. Ext. W-3 is a joint representation of the 40 workmen to the Secretary (policy) of the union concerned for taking up the matter of their reinstatement. Ext. W-4 is the letter written by the under Secretary to the Govt. of India, Ministry of Food & Agriculture to the Regional Director of Food, Eastern Region, Calcutta. It is dated 3rd, January, 1956. It relates to the recognition of the union, known as Regional Director of Food Employees Association and certain conditions were fixed regarding it. Ext. W-5 is a letter of the regional Director Food to the Secretary of the union concerned, which was in reply to a letter sent to the Regional Director by the Association regarding exemption of the office bearers of the union from transfer. Ext. W-6 also the letter issued by the Regional Director Food to the Secretary of the union regarding some measures taken for the health welfare of the family of the workers. Ext. W-7 is also a similar letter issued by the Godown Superintendent to the Regional Director. Ext. W-8 is a letter of the Regional Director sent to the Secretary of the union, which has no relevance in the present context. Ext. W-9 is a letter of the Regional Director Food which is also not relevant. It related to counting of temporary service of the employees. Ext. W-10 also appears to be totally irrelevant. Similar is the case with Exts. W-11, W-12, W-13, W-14, W-15, W-16, W-17, W-18, W-19, W-20, W-21, W-22, W-23, W-24, W-25, W-26, W-27, W-28, W-29, W-30, W-31, and W-32 also. So far as Ext. W-33 is concerned, it is Office Order No. 80 of 1975 on 26th March, 1975 issued by the Joint Manager (Port Operation) of F.C.I. It appears from this letter that the persons numbering 36 listed in this letter, who were placed on probation for a period of one year with effect from the dates indicated against their names, were declared to have satisfactorily completed probation period and were consequently confirmed. It related to the persons placed on probation in March and April, 1973. Ext. W-34 is a list of holidays for the year 1983. Ext. W-35 is a representation made to the Managing Director of F.C.I. By the Secretary of the union concerned regarding reinstatement of the 50 persons who were retrenched. Ext. W-36 is again the latter issued by the Secretary of the union to the Managing Director making certain complaints against the authorities

in making retrenchment of 50 employees. Ext. W-37 is again the letter issued by the Secretary of the union to the Minister Incharge, Ministry of Agriculture and Irrigation making appeal for reinstatement of the services of the concerned 50 persons. Ext. W-38 is a similar representation made by the Secretary of the union to the then Prime Minister of India. Ext. W-39 is also a detailed representation sent to the then Prime Minister, Smt. Indira Gandhi giving the details of the facts leading to the termination of the services of those 50 persons and making an appeal for their reinstatement. Ext. W-40 is a similar representation made to the Minister Incharge, Ministry of Labour. Ext. W-41 is also a representation made to the Minister of Labour, Govt. of India. Ext. W-42 is also a letter issued to the then Labour Minister, Govt. of India containing appeal for reinstatement of those workers. Ext. W-43 is a similar representation sent to Shri Prakash Singh Badal, the then Ministry Incharge of Agriculture and Irrigation. Ext. W-44 is the representation made to the then Prime Minister, Shri Morarji Dessai. Ext. W-45 is the letter sent to the Secretary to the Govt. Of India, Ministry of Labour in the matter giving out various details. Ext. W-46 is the personal representation made by one workman, Niranjan Dasgupta to the Joint Manager (Port Operation), F.C.I. Regarding his termination of service along with other persons. Ext. W-47 is the appeal made to the Food Minister, Govt. of West Bengal by the said workman, Niranjan Dasgupta. Ext. W-48 is the termination order of another workman. Tarun Chatterjee.

9. So far as the oral evidence is concerned, witnesses have been examined both on behalf of the management as well as the union. It appears that earlier when the preliminary points were raised to be decided and the Tribunal decided to hear and decide the matter, witnesses were examined on behalf of both the parties on the preliminary points. WW-1, Shri Ashru Bose was examined on 29-04-1983 and was cross-examined on 24-05-1983 and also on 25-05-1983. WW-2, Tarun Kumar Chatterjee was examined on 01-10-1983 and was cross-examined on 26-11-1983. On the other hand, MW-1, H.D. Saha was examined on 31-03-1984 and was also cross-examined on the same day. On the basis of this evidence the preliminary points were decided by order dated 11-03-1986, as has been described above. However, when the matter was finally disposed of by the Division Bench of the Hon'ble High Court, the matter was taken up for hearing on merit and the parties were directed to produce witnesses and accordingly witnesses were produced and examined, but while making the number of the witnesses, the evidence of the witnesses earlier examined on preliminary points were also taken into account and the witnesses were numbered accordingly, but the evidence of the witnesses examined earlier on the preliminary points have to be ignored, because the witnesses had not stated anything about the matter under dispute. It is also important to note that Shri Ashru Bose who was earlier examined as Ext. WW-1 was also again examined on 14-12-2000, but his cross-examination was

deferred on the prayer of the management and unfortunately before he could be cross-examined, he died. So, his evidence has to be ignored and expunged.

10. Ext. WW-4, Vivekananda Roy Chowdhury happens to be an Assistant Grade-III (Typist) and according to him he had entered the service on 01-05-1973 and prior to entering service he had received a call letter from the Regional Employment Office and had also received call letter for typing test and had appeared for the test. According to him, he was latter interviewed and thereafter appointment letter was given to him. He has stated that he was appointed on permanent post and according to him the written test and interview were taken in case of so many persons. He has stated that he had no relation in the Employment Exchange at the time he received the call letter. He also further stated that his interview was taken by a committee consisting of several persons including a Senior Deputy Manager and according to him all the recruitment rules were followed in case of his appointment. Further, he has stated that he was dismissed from service with effect from 01-04-1974, though no chargesheet was issued against him and no domestic enquiry was also held. He has also stated that no explanation was also called for from him. According to him no reason was assigned for his dismissal and in this way altogether 50 persons were dismissed by the management. He has stated that it is incorrect to say that any further typing test was taken after his initial appointment. He has also stated that the card issued to him at the time of his enrolment in the Employment Exchange was taken by the FCI at the time of his appointment and it was not returned. He has also stated that he has not been serving anywhere else since after his dismissal. In his cross-examination, he has stated that he has no knowledge as to what is written in the written statement filed on behalf of the union. This question has been asked specially in the background of the fact that in the written statement of the union it has been stated that the re-test of typing and re-interview were taken by the management regarding these persons appointed on 01-05-1973. Further, in his cross-examination he has stated that he does not correctly remember when the call letter was received by him and the letter has also not been filed. He also cannot say as to when the call letter for typing test was received and this letter has also not been filed. Similarly, he has also not filed interview letter and he also does not remember the actual date and time of interview. He said that he has also not filed the appointment letter, but, however, appointment letters have been filed on behalf of the union as well as for the management. However, he has expressed his ignorance about whether there was proposed penalty of compulsory retirement against Shri A.K. Das in connection with this case and he has also no knowledge as to whether any action was taken against Shri P.K. Sengupta. These two persons happened to be the members of the selection committee at the time of appointment and according to the management allegations were made against them regarding

irregularities committed in course of selection for appointment. He has also admitted that he was discharged and not actually dismissed. He also stated that in the office no officer had any personal illwill against him. So, he has no knowledge as to what was the reason for his removal from service by discharge. In this context, it has been suggested to him that actually re-test of his typing capacity was taken which was held in Goenka College of Commerce and that he did not qualify in this test. However, he has stated in his cross-examination that he does not know what were the marks obtained by him in the re-test taken by FCI and he has admitted that actually C.B.I. had held enquiry in the matter of the appointments. Therefore, it has been suggested to him that he was discharged because he did not pass in the re-test and that his appointment was collusive.

WW-5, Dipa Bhattacharjee had also joined on 02-05-1973 as Assistant Grade-III (Ministerial). According to her, her name was earlier registered with the Employment Exchange in the Regional Employment Office and she had received a call letter from the Employment Exchange. According to her she was subsequently interviewed by the management of FCI and no written test was taken in her case. She also stated that the members of the selection committee were Mr. A.K. Das and Mr. P.K. Sengupta. Later, she had received appointment letter after interview. She has stated that she had no relation in the Employment Exchange when she had received the call letter and she had also no relation in the interview board. She has further stated that she was discharged from service on 01-04-1974 and no chargesheet was issued against her before the discharge. She also stated that no enquiry was held and no show cause notice was also received by her. She has stated that she was not heard in the matter. However, she has also stated the after her appointment, no re-test was taken by FCI. She has denied that she had got appointment by manipulating things. She has also stated that after losing service, she has not been working anywhere else and she has prayed for reinstatement with wages. In her cross-examination, she has stated that she has not filed the call letter of the Employment Exchange as it was taken by the FCI. She also stated that she has not given any letter to FCI to return her call letter. She also does not remember the date of her interview, but according to her it was sometimes in April, 1973. She has also admitted that she has not filed her appointment letter. She has stated that she knew the contents of the written statement, but it does not appear to be correct, because in the written statement, as stated above, it is stated that re-test was taken, which she has denied. It has been suggested to her that she was made to appear before a special committee before the order of discharge was passed. It has also been suggested to her that she was not found qualified to hold the post by the special committee and she also admitted that she has not filed termination letter also. So, it has been suggested to her that her appointment was as a result of some collusive action and conspiracy. It has also been suggested to her

that she was not competent enough for the post for which she was appointed. She has admitted that no officer of FCI had any ill-will or grudge against her. So, she does not know for what reason her service was terminated.

WW-6. Purnima Saha has stated that she had joined as an Assistant Grade-III on 09-05-1973. She has stated that earlier her name was registered in the Employment Exchange and before appointment she had received call letter from the Employment Exchange and thereafter she was interviewed by FCI before appointment. She also stated that she was posted in the office of the Joint Manager (Port Operation) and she continued in service for 11 months. She stated that she was ultimately dismissed from service on 01-04-1974. She has further stated that she had not received any chargesheet from the FCI before her dismissal and no enquiry was also held. She also stated that after she lost her service in FCI, she has not served anywhere else. She also stated that no re-test was taken after she joined service. In her cross-examination, she has stated that she had not sent any letter or representation to the management to ascertain as to why her service was terminated. She also stated that she does not remember the names of the persons who were members of the interview board. It has been suggested to her that she has wrongly stated that no re-test was taken and it has been suggested that actually re-test was taken in which she did not succeed. It has also been suggested to her that her appointment was not made in proper manner and that she was removed from service because she did not pass in the re-test.

WW-7. Amal Sarkar Stated that he had entered service of FCI on 1st. of May, 1973 and was posted in the Office of the District Manager, Port Depot. According to him he was appointed on the post of Typist. According to him his name was earlier registered and enrolled in the Employment Exchange and he had received a call letter from the Employment Exchange and thereafter a typing test was taken. He further stated that he was retrenched from service on 1st April, 1974. He has stated that there was no complaint against him, nor any chargesheet was issued and there was no enquiry held. So, he never knew as to what reason for his removal from service. He has also stated that there was no re-test taken and his retrenchment was made in illegal manner. He also stated that he has not served anywhere else after his retrenchment from FCI. In cross-examination, the witness has stated that he never wrote to FCI to ascertain the reason of his retrenchment. It has been suggested to him that he has incorrectly stated that there was no re-test. It has also been suggested to him that he had no capability for the service which was offered to him and there was malpractice adopted in the matter of his appointment. It has also been suggested that actually there was a re-test in which he was not found to be upto the mark and accordingly he was removed from service.

WW-8 is Shyamal Kumar Sen Sharma. He has stated that the joined the service of FCI as Assistant Grade-III on

01--05-1993 in the office of the Joint Manager (Port Operation). According to him before receiving the employment he had received a letter of interview and he appeared for the interview. He further stated that he was removed from service on 1st. April, 1974. He stated that he was not given any chargesheet prior to his removal and there was no domestic enquiry held and no opportunity was afforded to him in this regard. He also stated that no re-test was in his case. He has denied that he was removed because he had failed in the re-test. He also stated that he was not presently employed anywhere else. In his cross-examination, he has stated that he has not deposited the concerned papers and he also does not remember the date of his interview. However, he has stated that there were four persons in the interview board and one of them was Mr. P.K. Sengupta, Joint Manager. He has also stated that he had handedover his appointment letter to his lawyer, but he cannot say whether it has been filed. Actually the appointment letters of all the candidates have been filed. He stated that he has no knowledge whether Mr. A.K. Das and Mr. M.K., Nag also happened to be the members of the interview board. He stated that after the interview there was subsequent interview and it has been suggested to him that he has incorrectly stated that there was no subsequent interview. He also said that he does not know whether C.B.I. had held any enquiry in the matter of their appointment. He admitted that no officer of FCI had any ill-will against him. It has been suggested to him that actually their appointments were obtained in collusive manner and it has also been suggested that because he did not pass in the interview subsequently, he was removed. He also expressed his ignorance about the fact that there was any enquiry of any kind after his appointment.

WW-9, Pulak Mukherjee stated that he joined as Ministerial AG-III on 5th May, 1973 in the office of the Joint Manager (Port Operation) of the FCI and subsequently he was transferred to the District Manager's Office at Hem Chandra Street, Khiddirpore. He further stated that before his appointment he had received an interview letter from the Employment Exchange and had appeared before the interview board. He further stated that he was removed from service on 1st April, 1974 and before his removal he did not receive any chargesheet and there was no enquiry. He also stated that he was not given any opportunity to defend himself. He denied that after his appointment there was reinterview and he had failed in it. He also stated that he is not engaged anywhere else since his removal from service, but he works as spray painter. In his cross-examination, he has stated that personally he did not make any representation before the authorities of FCI after his removal service. It has been suggested to him that actually he had got appointment in fraudulent and collusive manner. He has expressed his ignorance about whether any enquiry or investigation was made regarding their appointment. He has also expressed his ignorance about the fact whether C.B.I. had made any enquiry in the matter. It has been

suggested to him that there was an interview taken before termination of his service and it has been suggested that because he had failed in the interview, he was removed from service.

WW-10, Subir Guha Roy has stated that he had joined the service of FCI as AG-III (Ministerial) on 01-05-1973. He stated that before appointment, he had received a call letter from the Employment Exchange and had appeared for interview and then he was selected and appointed. He also further stated that he was terminated on 01-04-1974. He stated that no chargesheet was issued against him before termination of his service and he was not given any opportunity of hearing before termination. He denied that there was any irregularity in the appointment or that his appointment was collusive. He also denied that he was removed from service because he was not found fit in the re-interview. He has also stated that since after his removal he is not working anywhere else. It has been suggested to him in his cross-examination that after his appointment there was a re-interview and it is also suggested that he was removed from service because he had not passed the re-interview test after his appointment.

WW-11, Ujjal Ghosh has stated that he worked from 1973 to 1974 as Typing in the FCI and his service was terminated with effect from 1st April, 1974. He stated that there was no chargesheet issued against him and no domestic enquiry was also held. He also stated that he was employed by FCI on his name being forwarded by the Employment Exchange. However, he has stated that presently he is working in a private concern since 1st October, 1985 and after his removal from service and before he accepted this job, he had remained without any gainful employment. According to him presently he was getting Rs. 8000/- per month. In his cross-examination, his attention was drawn to the conditions of the appointment letter and he expressed his ignorance whether one of the conditions of his appointment was that during the period of probation he could be called for re-test. However, he admits that some terms and conditions are mentioned in the appointment letter, but he does not remember those terms. He has stated that his posting was permanent and he is not in a position to say if initially he was to be on probation. He has stated that he has no knowledge that there was allegation of fraud and illegality committed in the appointment. He also stated that he had not appeared in any re-test and as a matter of fact he does not remember if a re-test was taken. It has been suggested to him that actually a notice was given to them asking them to appear in a re-test on 24-03-1974 at Goenka College of Commerce and that he had appeared in the re-test on that date, but he had not passed the re-test.

It appears that some witnesses were not actually examined in Tribunal and their affidavits were filed which were treated as their examination in chief. In the affidavit filed on behalf of WW-12, Asit Baran Chatterjee it has been stated that he was employed under the FCI as a Clerk

on 01-05-1973 and his service was terminated on 31-03-1974. It is also stated that before termination of his service the FCI neither issued any chargesheet, nor any enquiry was held before issuing order of termination. He also stated that after his termination, he did not get any employment. In his cross-examination, he denied that he was appointed on probation, which is incorrect. He, however, admitted that in his appointment letter there was a clause that his appointment shall be on probation. He also admitted that he received the appointment letter after putting his signature on the copy of the letter itself. He also further admitted that there was a clause in the appointment letter that his appointment was purely temporary to be terminated any time without notice. He also admitted that it was mentioned in the appointment letter that there shall be a test during the probationary period for considering confirmation. He has also further stated that he was appointed as a Typist, but he does not remember whether there was any typing re-test during the period of his probation. He has denied the suggestion that his appointment was procured by unfair means. He has also denied the suggestion that he had failed in the re-test in typing also and, therefore, he was removed from service.

Similar statements have been given in the affidavit of WW-13, Tarun Kumar Dutta. However, in his cross-examination, he has proved his appointment letter, Ext. M-2/1. He also admitted that there was a clause in the appointment letter that the appointment was purely on temporary basis terminable any time without any notice. He also admitted that at the time of termination one month's salary was paid to him. He also admitted his termination letter, Ext. M-3/1. He also admitted that there was a clause in the appointment letter that the appointment was on probation for one year. He also admitted that there was a clause in the appointment letter that he shall have to appear in the test for qualifying for confirmation, but he denied that there was any re-test in November, 1973 and that he had failed in the re-test.

Similar kind of statements have been made in the affidavit of WW-14, Sebak Kumar Saha Chowdhury. He has admitted in his cross-examination that there was a term in the appointment letter that the appointment was purely temporary and was terminable at any time without any notice. He also admitted that there is also a clause in the appointment letter that the appointment was on probation for one year. He also admitted that there was a clause for taking test during probation period for considering confirmation, but he said that there was no such test taken. It has been suggested to him that actually he was called for interview during probationary period and he failed in it, which he denied. However, he admitted that before termination one month's salary was also paid.

Similar affidavit also filed on behalf of WW-15, Krishna Dasgupta. In cross-examination, she has admitted that she was appointed as Typist in FCI through

Employment Exchange after a test was taken and she had received appointment letter. She also proved the appointment letter Ext. W-2/3. She also admitted that there is a clause in the appointment letter that the appointment was purely on temporary basis and terminable at any time without notice. She also admitted that there was a clause that appointment shall be on probation for one year and during the period of probation there shall be a test for eligibility for confirmation. However, she stated that there was no re-test taken. It has been suggested to her that actually re-test was taken and she did not pass in the re-test. So, it has been suggested that she was terminated because she did not pass the re-test. She has, however, stated that she did not receive one month's salary at the time of her termination which appears to be incorrect, because in the termination letter itself it is stated that the incumbents were entitled to receive one month's salary in lieu of notice.

Similar kind of affidavit has been filed on behalf of WW-16, Raj Sekhar Bose and he has stated in his cross examination that he was aware of the clauses of the appointment letter and he has testified to his appointment letter, Ext. M-2/4. He has denied that during his period of probation a test was taken for eligibility for confirmation and that he had failed in the test. He also denied that he had received one month's salary at the time of his termination, though he has testified to his termination letter, Ext. M-3/3.

Similar kind of affidavit has been filed on behalf of WW-17, Smt. Shefali Aich. She happens to be the widow of late Anadi Aich who was also one of those 50 persons. In her cross-examination, it has been suggested to her that the service of her husband was terminated as he had not qualified in the re-test.

WW-18, Torun Kumar Chatterjee also filed an affidavit to this effect. However, in his cross-examination, he has stated that in the appointment letter, Ext. M-2/6 it is written that the service was temporary in nature and he was on probation. He also admitted that in Clause 10 of the appointment letter it is mentioned that he shall have to appear for re-test within the period of probation. However, he stated that re-test was not taken. So, it has been suggested to him that actually re-test as contemplated was taken and he had not passed in the re-test.

Similar affidavit has been filed on behalf of WW-19, Susanta Das. In his cross-examination, he testified to his appointment letter, Ext. M-2/7 and has also stated that there was a condition in the appointment letter that his service was temporary and he was appointed on probation. He also admitted that it was stated that he shall have to appear for re-test during the period of probation. He has denied the suggestion that he appeared in the re-test and had failed in the same. However, he also admitted that one month's salary was paid to him at the time of termination.

WW-20, Deb Ranjan Mukherjee also swore the affidavit of the similar nature and in the cross-examination he admitted that it was mentioned in the appointment letter, Ext. M-2/8 that during the probation period he shall have to appear for re-test, but he states that re-test had not been taken. It was suggested to him that actually re-test was taken and that he failed in the re-test and, therefore, his service was terminated. However, he also stated that he did not receive one month's salary at the time of his termination and it has been suggested that he was lying on the point and actually he received one month's salary in lieu of notice.

Similar things were stated by WW-21, Amit Bose in his affidavit. However, in his cross-examination, he admitted his appointment letter, Ext. M-2/9 and also admitted that there was a clause in the appointment letter that his appointment was of temporary nature and he was appointed on probation. He also admitted that there was a clause that he shall have to appear for re-test during the period of probation, but he also says that he had not appeared for the re-test. However, he also admitted that he had received one month's salary at the time of termination.

11. So far as the witnesses for the management are concerned, they are seven in number, MW-1, Pranab Kumar Mitra stated that he had joined as AG-III (Typist) in 1973 and his name was forwarded to FCI by Employment Exchange and he was also called for interview before the appointment letter was issued. He stated that he was appointed on probation for a period of one year and his appointment was initially on temporary basis. He also stated that in the appointment letter itself it was mentioned that re-test shall be taken subsequently. He also stated that he had heard that in the matter of their appointment there was an enquiry by C.B.I. and he was also questioned by C.B.I. He further stated that there was a re-test taken before the expiry of the probation period and that this re-test was taken in the office of the Zonal Manager. He stated that many persons had appeared in the re-test. He also stated that he had passed the re-test and then he was confirmed and still he is serving in FCI. In his cross-examination, he has stated that because he was questioned by the C.B.I. he knew that there was C.B.I. enquiry. He was asked to produce any paper to support his claim, but he expressed his inability.

MW-2, Kamal Krishna Bhattacharjee also is one of the persons appointed in 1973 by the FCI as a Typist. However, he occupies the post of Assistant Grade-I (General). He stated that he had received call letter from FCI and initially was appointed as Typist on the basis of typing test held and he was appointed on probation for one year. He stated that his appointment was initially temporary. However, he does not remember if there was any clause regarding re-test in the appointment letter, but he has stated that during his probation period he had appeared in the re-test and had passed the same. He also

stated that so many persons had appeared in the re-test. According to him after passing the re-test he was confirmed in the service. He also stated that he learnt that there was a C.B.I. enquiry in the matter of appointment during his probation period. So far as his claim regarding re-test is concerned, he was asked to produce any paper and he said that he is unable to do so.

MW-3 is Susanta Kumar Modak. He stated that he joined as Typist in 1973 and presently he was holding the post of AG-I (Ministerial). He has stated that he was appointed on probation for one year and it was mentioned in the appointment letter that he shall have to appear for re-test during probation. He also stated that re-test was taken in the Zonal Office and he had appeared in the re-test and he was confirmed after he passed the re-test. In his cross-examination, he stated that though he has got no paper in this regard, he knew that he had passed the re-test when he was confirmed.

MW-4, Anil Chandra Ghosal is also Assistant Grade-I (Ministerial). According to him he entered service of FCI as a Typist and at the time of appointment his name was forwarded by the Employment Exchange and thereafter a typing test was taken and then interview was also held. Accordingly, he was appointed on 1st May, 1973. He stated that he had to undergo probation for one year. According to him initially he was appointed on temporary basis and there was a stipulation in the appointment letter that there shall be a re-test before confirmation. So, he had also appeared in the re-test. According to him many persons had appeared in the re-test and he passed the re-test and then he was confirmed. He also stated that C.B.I. enquiry was held in the matter. There is nothing significant in his cross-examination. However, he has stated that he learnt that he had passed the re-test because he was confirmed, which appears to be natural.

MW-5, Swapan Kumar Saha is also an employee of AG-I (Ministerial) in FCI and according to him he was appointed on the post of AG-III (Ministerial). He stated that he had received appointment letter after interview. He also stated that FCI had sent call letter and the appointment was on temporary basis. He stated that there was a clause in the appointment letter that they shall have to appear in a re-test before confirmation and according to him the probation period was for one year and re-test was also taken. He also stated that he had appeared in the re-test in the Zonal Office in which several persons had appeared. However, he stated that he cannot say as to who had passed and who had failed, but he was confirmed, though many persons were not confirmed. He also stated that there was a C.B.I. enquiry in this connection and he had appeared before the C.B.I. during enquiry. There is nothing significant in his cross-examination also.

MW-6, Dilip Kumar Dutta is also an Assistant Grade-I (Ministerial) in the office of the District Manager, 24 Parganas. According to him he was originally appointed

as Assistant Grade-III (Ministerial). According to him his name was called for from the Employment Exchange and then interview letter was issued and they were interviewed and then appointment was made. He stated that the appointment was originally on ad-hoc basis and it was for a period of one year. According to him there was a term in the appointment letter that they shall have to appear in re-test confirmation was made. He also stated that he appeared before for re-test at the Zonal Office. According to him many people had appeared in the re-test and after the re-test, he was confirmed and, therefore, he presumed that he had passed the re-test. However, he has stated that he has no knowledge as to whether any other person was confirmed or removed, but some persons were removed and he cannot say as to for what reason they were removed. He further stated that there was a C.B.I. enquiry in the matter and he had received a letter from C.B.I. and he had appeared before them. He stated that at the time of re-test only oral interview was taken, which appears to be correct, because typing test was taken in case of Typist only, whereas this witness was AG-III (Ministerial) and in his case also interview was supposed to have been taken.

MW-7, Asit Kumar Bhattacharya is also a person of AG-I (Ministerial). According to him he had joined on 15th October, 1971 and initially he was AG-III (Ministerial). He stated that on the basis of a complaint coming from Delhi he learnt about the present dispute. He stated that the complaint was being dealt with by the Vigilance Section and he proved the xerox copy of the complaint, Ext. M-4. He stated that on the basis of this complaint an officer from Delhi had come to make enquiry. He was Mr. K.S. Bhasin. He further stated that some reports were submitted in this connection and these reports are marked Exts. M-5, M-5/1 and M-5/2. He further stated that under instruction of the Government from Delhi, the matter was referred to C.B.I. for investigation. He also proved the letter written by the then Zonal Manager, Mr. S. Dutta in this connection to the Superintendent of C.B.I. This letter is Ext. M-6. The witness further stated that on the basis of the report submitted by the C.B.I. in the matter, there was instruction from the Head Quarters to take a re-test of the Typists and re-interview of the others who were appointed earlier. He stated that re-interview was taken in the Zonal Office and re-typing test was conducted in Goenka College. He also stated that he was present at the place of re-interview. He stated that amongst the officers taking re-interview were Mr. S. Bhattacharya, Mr. C.A. Samnadar and Mr. J.S. Arora. He further stated that about 70 to 72 persons were re-interviewed which was the combined strength of Assistants and Typists. He further stated that out of these persons only 7 Typists and 13 Assistants had qualified. He also stated that the Zonal Manager had issued instruction to the Joint Manager (Port Operation) to take appropriate action in the matter. The letter stands marked Ext. M-7. He stated that in this view of the matter, the persons who had not qualified were removed from service. Nothing

significant has been stated in his cross-examination also, though it has been suggested to him that has lied on being tutored.

12. In view of what has been stated in the written statements filed on behalf of the parties and the evidence adduced, some facts become admitted. It is admitted that the workmen concerned were appointed alongwith 20 others on 01-05-1973. There were altogether 70 persons thus appointed, 35 of them being Assistant Grade-III and 35 as Typists. The appointments were made after the names of the candidates were received on requisition from the Regional Employment Exchange. After the receipt of the names a typing test was held regarding the candidates for Typists and the interviews were held both for the candidates for Assistant Grade-III (Ministerial) and Typists. This formality was conducted by a board constituted with Mr. P.K. Sengupta, Joint Manager (Port Operation), Calcutta as Chairman and Mr. A.K. Das, a Senior Deputy Manager, Mr. M.K. Nag, a Deputy Manager (Administration), Mr. S.K. Chakraborty, Deputy Manager (Accounts) and Mr. D.N. Chakraborty, Senior Assistant Manager (Administration) as members. The board made a selection of the candidates and the names were accordingly recommended and then the aforesaid 70 persons were appointed. Another fact admitted is that the concerned 50 persons out of altogether 70 persons appointed, were terminated from service by the management of FCI with effect from 1st April, 1974 by order dated 28th March, 1974, Ext. M-3 series.

13. The union has alleged that the termination of these concerned workmen was actually a "retrenchment" within the meaning of Section 2(o) of the Industrial Disputes Act, 1947 which was illegal in view of the fact that the conditions of Section 25F were not fulfilled by the management while terminating the services of the aforesaid workmen. On the other hand, it has been contended on behalf of the management that when the workmen were appointed by the appointment letters, Ext. M-2 series, it was made clear in their appointment letters that they were being appointed on purely temporary basis and that the services were terminable any time without any notice or assigning any reason. It is also contended that it was made clear in the appointment letters that the candidates will be on probation for a period of one year from the date of their appointment, if not terminated earlier. It is also contended that in clause 10 of the appointment letters, Ext. M-2 series it was laid down that the candidates shall have to qualify in any test prescribed by the competent authority during the period of probation and their confirmation will be subject to passing such test. In this connection, it is further contended that actually under some circumstances it was thought proper on the part of the management to take re-test and accordingly re-typing tests were taken in the case of Typists and re-interviews were taken in the case of AG-III (Ministerial) candidates. It is contended that out of the

total of 70 persons who were appointed, 20 could pass the re-tests and the rest 50 could not pass and, therefore, the management decided to terminate their services by discharging them. It is, therefore, contended that the termination cannot, in the circumstance, be termed as 'retrenchment', because it was in accordance with the terms of their appointment. On the other hand, it has been contended on behalf of the union that it is true that the termination was done on the plea of their not passing the re-tests, but actually there were some allegations made against the candidates that they had adopted unfair means and had practised fraud at the time of their appointment and enquiries were also held in this connection including an enquiry by the C.B.I. Therefore, it is contended that it cannot be said by the management that the termination were simpliciter; rather, it was with a stigma attached and, therefore, the requirements of Section 25F had to be fulfilled and since the provisions of Section 25F have not been complied with, the termination becomes illegal retrenchment and the concerned workmen, therefore, deserve to be reinstated.

14. Several decisions were discussed by the parties in this regard. It is necessary to discuss some of the case laws on the point. In the case of Gujarat Steel Tubes Ltd. etc. Vs. Gujarat Steel Tubes Mazdoor Sabha and Ors. (AIR 1980 SC 1898) the matter was considered by a Bench of Honourable Three Judges and as per the majority view it was observed that the form of the order of termination or the language in which it is couched is not conclusive. Further, their Lordships observed that the Court will lift the veil to see the true nature of the order and if two factors co-exists, an inference of punishment is reasonable though not inevitable. Their Lordships further observed that if the severance of service is effected, the first condition is fulfilled and if the foundation or causa causans of such severance is the servant's misconduct the second is fulfilled. Their Lordships further observed that if the basis or foundation of the order or termination is clearly not turpitudinous or stigmatic or rooted in misconduct or visited with evil pecuniary effect, then the inference of dismissal stands negated and vice-versa. Their Lordships further proceeded to observe that the Court will find out from other proceedings or documents connected with the formal order of termination what the true ground for termination is and further observed that a termination effected because the master is satisfied of the misconduct and of the consequent desirability of terminating the service of the delinquent servant is a dismissal, even if he had the right in law to terminate with an innocent order under the Standing Order or otherwise. Their Lordships further observed whether in such a case the grounds are recorded in a different proceeding from the formal order does not detract from its nature, nor the fact that after being satisfied of the guilt, the master abandons the enquiry and proceeds to terminate. Their Lordships further observed 'given an alleged misconduct and a live nexus between it and the

termination of service the conclusion is dismissal, even if full benefits as on simple termination are given and non-injurious terminology is used'. Their Lordships further observed that on the contrary even if there is suspicion of misconduct the master may say that he does not wish to bother about it and may not go into his guilt but may feel like not keeping a man he is not happy with.

In another case, *Anoop Jaiswal Vs. Government of India and Anr.* (AIR 1984 SC 636-1984 Lab. I.C. 343) it was observed by their Lordships "Even though the order of discharge may be non-committal, it cannot stand alone. Though the noting in the file of the Government may be irrelevant, the cause of the order cannot be ignored. The recommendation which is the basis or foundation for the order should be read along with the order for the purpose of determining its character. If on reading the two together the Court reaches the conclusion that the alleged act of misconduct was the cause of the order and that but for the incident it would have been passed then it is inevitable that the order of discharge should fall to the ground if the servant had not been awarded reasonable opportunity to defend himself as provided in Article 311(2) of the Constitution"

In the case of *M. Venugopal Vs. The Divisional Manager, Life Insurance Corporation of India and Anr.* (AIR 1994 SC 1343) it was observed by their Lordships "Even under general law, the service of a probationer can be terminated after making overall assessment of his performance during the period of probation and no notice is required to be given before terminating his service. This aspect has been examined by this Court in the case of the *Governing Council of Kidwai Memorial Institute of Technology*, AIR 1993 SC 892, where it has been pointed out that if the performance of the employee concerned during the period of probation is not found to be satisfactory on overall assessment, then it is open to the competent authority to terminate his service."

In another case, *Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Science, Calcutta & Anr.* (1999 LAB. I.C. 1114) it was observed by their Lordships of Hon'ble Supreme Court that the contention for the appellant is that if the appellant is to seek employment elsewhere, any new employer will ask the appellant to provide the copies of the letters dated 30-04-1996, 17-10-1996 and 31-10-1996 referred to in the impugned order and that if the said letters contains findings which were arrived at without a full-fledged departmental enquiry, those findings will amount to stigma and will come in the way of his career. In the circumstance, it was held by their Lordships. "In the matter of 'stigma' this Court has held that the effect which an order of termination may have on a person's future prospects of employment is a matter of relevant consideration. In the seven Judge case in *Samsher Singh Vs. State of Punjab* (AIR 1974 SC 2192), Ray, C. J. observed that if a simple order of termination was

passed, that would enable the officer to "make good in other walks of life without a stigma". It was also stated in *Bishan Lal Gupta Vs. State of Haryana* (AIR 1978 SC 363) that if the order contained a stigma, the termination would be bad for "the individual concerned must suffer a substantial loss of reputation which may affect his future prospects."

In the case of *V. P. Ahuja Vs. State of Punjab & Ors.* (AIR 2000 SC 1080), it was held by their Lordships "The entire case law with respect to a "probationer" was reviewed by this Court in a recent decision in *Dipti Prakash Banerjee v. Satyendra Nath Bose National Centre for Basic Sciences, Calcutta*. This decision fully covers the instant case as well, particularly as in this case, the order impugned is stigmatic on the face of it". So, it is apparent that their Lordships in the last referred case totally agreed with the findings and observations of their Lordships in the case of *Dipti Prakash Banerjee* (supra).

Recently, in the case of *M.P. Electricity Board and Anr. vs. Dinesh Kumar Agrawal* (2001-II LLJ 423) their Lordships of the Hon'ble Supreme Court after considering the other cases on the point held that "the case of the respondents does not fall within the purview of 'retrenchment' because his service came to be terminated as a result of non-renewal of contract of employment and the stipulation provided in the contract itself. We find force in this submission." It was ultimately held by their Lordships that "the order of appointment refers to terms and conditions mentioned in Annexure-I thereto and Clause (4) of Annexure-I clearly mentioned that in case a candidate fails to qualify tests or appraisal test, he or she shall be liable for termination. If that is so, we do not think there is any warrant for the conclusion reached by the High Court that there is no clause for termination of the candidate who does not pass the appropriate test. Clearly the case falls on the exception of Sub-clause (bb) of Section 2(oo) of the Industrial Disputes and the termination is as stipulated in the contract. Therefore, the view taken by the High Court can not be justified at all."

In the case of *Life Insurance Corporation of India and Anr. Vs. Raghavendra Seshagiri Rao Kulkarni* (1998-II ILJ 1161 SC) it was held by their Lordships that a regular departmental enquiry before dispensing with the services of a probationer can not be invoked in the case of a probationer specially when his services are terminated by an innocuous order which does not cast any stigma on him. The termination of the respondent's services would amount to 'retrenchment' as defined in Section 2(oo) of the Industrial Disputes Act. It was also further held by their Lordships that termination of service of a probationer Development Officer in L.I.C. without notice or without assigning any reason does not amount to 'retrenchment' under Section 2(oo) of the Industrial Disputes Act.

In the case of *Ganganager Zila Dugdh Utpadak and Sahkari Sangh Ltd. and Anr. Vs. Priyanka Joshi and Anr.*

(AIR 1999 SC 2363) it was observed by their Lordships that termination of service during probation period if awarded in an innocuous manner and the reason for passing of the said order appears to be the absence of the respondent from duty is valid and even the use of word 'dismissal' cannot be regarded as by way of punishment. Their Lordships concluded that when there is a reason for terminating the service during the probationary period and the order terminating the service was worded in an innocuous manner, the order of dismissal was valid.

15. In view of the aforesaid decisions, it has been submitted on behalf of the management that so far as the present case is concerned, there is no doubt that earlier there were some allegations against the fraud committed by the workmen at the time of their appointment and the matter was enquired and investigated, but the management did not take the decision to terminate the services of these workmen on the basis of any report of enquiry or investigation. Rather, it was considered by the management to test the competence and genuineness of the claims of their qualifications by the workmen concerned and, accordingly, the re-tests were taken. It is submitted that the re-test was not taken in any arbitrary manner and there is nothing unusual in it, because it was made clear in the appointment letters, Ext. M-2 series itself that the candidates shall have to appear for re-test, if required by the management and accordingly the re-tests were taken in which out of the 70 persons similarly appointed, 20 persons got through, but the rest 50 persons were not found fit and upto the mark and, therefore, the management decided to terminate their services by passing an order of their discharge. Therefore, it has been submitted that the order in question cannot be treated as dismissal or retrenchment, because no stigma has been attached to them and it is a case of termination simpliciter. Therefore, the termination order cannot be held to be invalid and illegal. Moreover, it has been pointed out that some of the witnesses for the union themselves have admitted that their appointments were on probation on temporary basis, which was terminable at any time and that one month's salary was also paid in lieu of notice before termination. Such witnesses are WW-12, WW-13 and WW-14. It is pointed out that the witnesses WW-12, WW-13, WW-14, WW-18 and WW-21 have also admitted that their services were temporary and on probation. It is also pointed out that the witnesses for the union including the workmen concerned have denied that there was a re-test or re-interview during their period of probation, but interestingly it has been clearly admitted in the written statement or statement of claims of the union that the workmen were removed on the basis of the re-test taken which was not in accordance with rules. But, it appears that the re-test was taken as per the contemplation in the

appointment letters, Ext. M-2 series. It has been further submitted that so far as the witnesses for the management are concerned, MWs 1, 2, 3 and 4 have clearly stated that they were also similarly appointed persons as the workmen concerned and re-tests were taken during the probationary period and whereas these witnesses and some others, altogether 20, had qualified; the rest of the persons could not pass the re-test. They have stated that they were subsequently confirmed to the posts and some of them have also got promotion. It has also been pointed out that MW-7 who happens to be a Ministerial Staff of the establishment of FCI has clearly stated that re-interviews had taken place in his presence and that the persons who did not pass the re-test were removed from service. Therefore, it has been submitted that it cannot be said that the workmen were removed with a stigma. It has been contended on behalf of the management that the termination, therefore, cannot be termed as stigmatic and it is a termination simpliciter and, therefore, there is nothing illegal in the order of termination. The wordings of the termination orders, Ext. M-3 series are very clear in which it has been stated that the person concerned on probation is discharged from service with effect from the forenoon of 1st April, 1974 and in lieu of 30 days notice, he will be paid one month's pay under Sub-regulation 3(b) of Regulation 15 of the Food Corporation of India Staff Regulation, 1971 as amended upto date. It has, therefore, been submitted on behalf of the management that when the terms of appointment were very clear that the appointments were on temporary basis against temporary posts, terminable at any time and that the candidates were to be treated on probation for a period of one year and also that the candidates were supposed to appear for re-test, if required by the management, it goes to show that the re-tests were taken fully in accordance with the terms and conditions of service of these workmen. The management did not consider to remove them by attaching any stigma to them, though there were complaints earlier against them and after taking re-test, terminated the service of the employees who were not found fit. Therefore, it is clearly a case of termination simpliciter and it cannot be treated as either dismissal or retrenchment under Section 2(oo) of the Industrial Disputes Act, 1947.

16. In such a circumstance, the removal of the workmen concerned from service cannot be termed as illegal and invalid. The reference is decided accordingly and it is held that the workmen concerned are not entitled to any relief whatsoever.

B. P. SHARMA, Presiding Officer

Dated, Kolkata,
The 9th January, 2003.

नई दिल्ली, 17 जनवरी, 2003

का. आ. 570—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, कलकत्ता पोर्ट ट्रस्ट के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 41/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-2003 को प्राप्त हुआ था।

[सं. एल-32011/4/99-आई.आर.(एम)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 17th January, 2003

S.O. 570.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 41/1999) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of Calcutta Port Trust and their workman, which was received by the Central Government on 17-1-2003.

[No. L-32011/4/99-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA

Reference No. 41 of 1999

PARTIES:

Employers in relation to the management of Calcutta Port Trust

AND

Their workmen

PRESENT:

Mr. Justice Bharat Prasad Sharma ... Presiding Officer

APPEARANCE:

On behalf of Management : Mr. M.K. Das, Industrial Relations Officer.

On behalf of Workman : Mr. T. B. Roy, Vice-President of the Union.

State : West Bengal Industry : Port & Dock

Dated : 1st January, 2003

AWARD

By Order No. L-32011/4/99/IR(M) dated 08-11-1999/10-11-1999 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Calcutta Port Trust in withdrawing certain benefits like compensatory allowance i.e. 73% of pay, free provisions etc. available to marine crew while on board Pilot Vessel "Samudra" after condemnation and declaring the same marine crew surplus is justified ? If not, to what relief the marine crew are entitled to ?"

2. The present dispute has been raised by the union, Calcutta Port Shramik Union regarding some grievances of some of the employees of the Calcutta Port Trust whose benefits were withdrawn and withheld by the Calcutta Port Trust.

3. From the written statement of the union it appears that some of the workmen were deployed on a vessel named P. V. Samudra. The crew of the vessel consists of several ranks of personnel. The vessel and crew members were under the control of Harbour Master (River) and the Engineering Superintendent under the overall control of the Director, Marine Department of the Calcutta Port Trust. It is further stated that the crew members of the vessel are paid compensatory allowance @ 73% of gross wages and also some other facilities including free provisions. It is stated that the said facilities were all along available to the crew members of various vessels since long and the same were allowed to the crew members even if the vessels were declared condemned or out of commission. In this view of the matter, it is stated that such compensatory allowance has become part of pay since long as maintained by the then Commissioners of the Port and now the Trustees. The benefits have become so component with the pay packets of the workmen that by way of pay protection they are allowed to enjoy the facilities even after the vessel is out of commission. It is further stated that the management of the Calcutta Port unilaterally withdrew the said facilities from the crew members of P. V. Samudra on the ground that the said vessel was declared condemned and thus they caused reduction in pay and some of the crew members were also declared surplus. It is stated that such surplus crew members had been directed to give their attendance in their respective sectional offices. It is further stated that the union then protested against the said unilateral action amounting to unfair labour practice and the matter was represented before the port management and they were asked not to proceed unilaterally against the crew members and should continue to allow the compensatory allowance to such members, but the management did not agree to it. Thereafter the union raised the matter before the Regional Labour Commissioner (C) by a letter dated 15-03-1999 and requested for adjudication. However, the R. L. C. took up the matter with the port management and started conciliation proceeding under the relevant provisions of the Industrial Disputes Act. The union at this stage had also made a request to the R. L. C. for restraining the management from taking any action amounting to depriving the crew members

of their legitimate dues and facilities. It is stated that the R. L. C. started conciliation proceeding and requested the C. P. T. by a letter dated 15-03-1999 to appear before him for resolving the dispute and several meetings were held, but the conciliation could not materialise as the management did not cooperate with the Conciliation Officer and adopted a hard attitude. It is further stated that the Director, Marine Department in the mean while issued an order on 26-05-1999 causing reduction in pay during pendency of the conciliation proceeding inspite of the forbiddings of the Conciliation Officer. Since the conciliation ended in failure, the failure report was submitted to the appropriate Government and the present reference was made. It has been stated in this connection by the union that the compensatory allowance had become a part of pay of the workman having various designations of Pilot Vessel Samudra. It is stated that even in the past when crew members were declared surplus from vessels, same facilities were maintained by way of pay protection even if the said crew members were deployed on some other vessel or elsewhere by the then Commissioner of the Port. It is stated that in the year 1968 when some of the vessels of the Port were condemned, the marine crew of those vessels were declared surplus, but the issue of their adjustment was settled through a tripartite settlement dated April 3, 1968 executed in presence of the R. L. C. It is stated in this connection that it was agreed in the settlement that the surplus staff would be absorbed against regular vacancies with all pay protection and existing benefits and accordingly the surplus staff were given protection. It is also further stated that the Commissioners of the Port of Calcutta in their meeting framed regulations governing the service conditions of the employees working in the vessels and it has been provided in this Regulation in clause 6 of the Regulation that compensatory allowance in lieu of overtime wage at the rate of 62½% of pay will be available to the crew members which was subsequently enhanced to 73%. It is further stated that with the implementation of the Major Port Trust Act, 1963 which came into effect in Calcutta on 01-02-1975, the Commissioners ceased to exist and the management of the Port was taken over by the Calcutta Port Trust, which is a board of Trustees under Section 3 of the Major Port Trusts Act. It is stated that Section 5 of the Act provides that every board constituted under this Act shall be body corporate having perpetual succession and a common seal with power subject to the provisions of this Act. It is also further stated that Section 16 of the Act provides that a board shall meet at every such time and place and shall subject to the provisions of sub-section 2, 3 and 4 of Section 16 observe such rules of procedure in regard to the transaction of business and its meeting as may be provided by rule under this Act. It is also further stated that Sub-section 3 of Rule 16 provides that all questions at a meeting of the board shall be decided by a majority of the votes of the trustees present and voting and in the case of an equality of votes the person presiding

shall have a casting vote. It is further stated that the Regulations framed by the Commissioners will continue under Section 133 of the Major Port Trusts Act so long the new Regulations are not framed and such Regulation has not yet been framed by the board. It is further stated that in a meeting dated 07-06-1976 with the Chairman of the Calcutta Port Trust and the union representatives before the Labour Minister of the Government of West Bengal came to an understanding that the pay and designation of the personnel who were in excess to requirement would be protected and every attempt would be made to deploy them against future vacancies, either of Calcutta or Haldia. It is further stated that it was also decided in the meeting held on 06-02-1982 that apart from the fact that none would be thrown out of employment, the men rendered surplus would be suitably deployed in alternative job and where necessary, they would receive training for their new job to be entitled to full pay. It was also decided that the total emoluments including the existing consolidated overtime would be protected. It is also stated that it was decided that the men at present working for 12 hours per day would continue to do so at other places where they might be shifted and the others doing a duty of 8 hours. It is also decided that minor changes could be introduced for this purpose, if necessary, and if anyone was unable to do work, his interest would be duly safeguarded and it was also decided that the whole issue would be considered with full sympathy and understanding. It is also further stated that in the case of the crew members of a vessel, Path Finder who were declared excess to requirement on the vessel being declared condemned, it was decided that when any vacancy arises, these people will be adjusted on the same vacancy with all their present benefit and at the rank which they were presently holding. It was also decided that it should be clearly understood that for refusal the same will make him liable for stoppage of his all benefits which are granted to him by his office. This decision was also communicated to the Director, Marine Dept. by a letter dated 07-04-1987. It is further stated that a large number of crew members having various designations were declared surplus due to vessels being declared condemned and it was decided by the trustees in a meeting dated 03-01-1990 to deploy the said crew members to the existing vessels and also to deploy them in other sections or establishments maintaining their original seniority with full pay protection including compensatory allowance and other benefits which were available to them as crew members of the vessels, even if they were posted elsewhere. It is also further stated that it is established principle that crew members are entitled to full pay protection including compensatory allowance and all the benefits available to them as crew members of the vessels, even if they are declared surplus and deployed in the vessels or somewhere else have to be protected. It is further stated that the compensatory allowance is part of pay and it cannot be curtailed by the management on any ground whatsoever as such curtailment

amounts to punishment in reduction of pay. It is further stated that the established principle is that the existing benefits cannot be curtailed or withdrawn even from employees concerned who are declared surplus to requirement and were redeployed somewhere else. It is further stated that the Commissioners for the Port of Calcutta and the Board of Trustees of the Port of Calcutta are the statutory body framed under the Statute and it is also stated that the management of CPT cannot take any decision or any action in supersession of the decisions taken by the then Commissioners for the Port of Calcutta and the Board of Trustees in their meetings from time to time. It is stated and submitted that the action of the management of CPT in withdrawing the compensatory allowance of 73% of pay and free provisions etc. available to the marine crew being declared surplus is not at all justified and the same may be allowed to continue to the crew members and accordingly the union has prayed for relief.

4. The management has also filed a detailed written statement. It has been stated that the Board of Trustees for the Port of Calcutta is vested with administration, control and management of the affairs of the Calcutta Port and for this purpose it has a number of departments under the Calcutta Dock System. It is stated that one of the departments under the Port is Marine Deptt. headed by Director, Marine Department. It is also stated that there are several sections under the Marine Deptt. and one of such sections is Harbour Master (River) Section. It is stated that under the said section there are Pilot Vessels, launches and the main job of this section is to bring ships to and from the Sandheads to Calcutta Dock System and Haldia Dock Complex. It has been stated that from the schedule of reference it becomes clear that the only issue before the Tribunal is whether the action of the management in withdrawing certain benefits like compensatory allowance @ 73% of pay and free provisions etc. which are admissible to the marine crew while they are on duty on board after the vessel being declared condemned and the crew members being withdrawn is justified or not. In this connection, it is stated that under the Marine Deptt. under the Board there are various categories of employees having different nature of work and conditions depending on the requirement of the port. It is stated that there are employees in the offices performing duties of 9 hours a day or 48 hours a week and accordingly their duties are fixed and there the vessels and crafts where duty hours as are applicable to the employees of the offices cannot be made applicable in respect of the marine crew posted on board the ships. It is stated that the employees, therefore, under the Marine Deptt. posted in the offices on shore and on board the vessel are covered by the provisions of the Minimum Wages Act, 1948 in the matter of payment of overtime wages for performing duties beyond 9 hours a day or 48 hours a week and because of the fact that fixed

working hours could not be followed in respect of the crew members attached to the vessels in view of their irregular nature of work and considering the vessel to which the employees are attached are considered to be their place of stay as well as their place of duty, specific exemption in respect of them from the purview of the provisions of Sections 13 and 14 of the Minimum Wages Act, 1948 has been obtained from the Govt. of India by the Board. It is stated that a Pilot Vessel normally remains at sandhead at a stretch for sometime and then comes back to the shore where it also stays for a certain period of time at a stretch. It is stated that while at sandhead Pilots from the Pilot Vessel are ferried to the incoming foreign or coastal ships or from the outgoing ships to pilot vessel constitute the main work of the Pilot Vessels. It is stated that normally the working time for the crew on board the vessel while on the river is from 6 A.M. to 4 P.M., i.e., 8 hours per day, excluding two breaks of one hour each. It is stated that boating may be required outside the normal working hours and there are duties for maintenance of vessel and for running repairs. It is also stated that one to three crew members remain on watch duty by rotation after 4 P.M. while the rest of the crew relax. It is stated that while at Calcutta, the duty hours are from 7 A.M. to 4 P.M. with 2 breaks of 1 hour each on week days and 7 A.M. to 1 P.M. on Saturdays and from 7 A.M. to 9 A.M. on Sundays. It is also further stated that after duty hours, half of the crew get shore leave and the other half does ship keeping duty by rotation to ensure safety of the vessel and the properties therein. It is further stated that since the members of the crew are required to go out in the river and remain away from the docks for a certain number of days in a month, the crew cannot be allowed a day off in the week when down the river and have to perform irregular hours of work as also have to work overtime according to requirement of work. It is stated that subsequent to the enactment of the Minimum Wages Act, 1948 the minimum wages of different categories of employees under the Calcutta Port Trust were fixed. It is stated that the demand for benefits under the said Act and the Minimum Wages (Central) Rules, 1950 fixing hours of work with recess, providing for a weekly day of rest, payment for work on day of rest and overtime were raised from time to time which were followed by agreements. It is stated that periodically exemptions were also obtained from the Central Government from Sections 13 and 14 of the Minimum Wages Act, 1948 in respect of the marine crew of the Port's vessels and crafts. It is also stated that demands of the unions were ultimately referred for adjudication by the Central Government to the Central Govt. Industrial Tribunal, Calcutta through Reference Nos. 136, 137 and 140 of 1966 and the matter resulted in an Award published on 30-09-1967 and it was also confirmed by the Hon'ble Supreme Court. It is stated that the Tribunal awarded, inter alia, consolidated overtime @ 62½% of gross wages to the crew of Pilot Vessels alongwith 26 days of special casual leave and free supply of provisions in consideration of the

nature of duties they are required to perform on board the pilot vessel. It is stated that the rate of consolidated overtime was further enhanced by 5% at the time of implementation of the Award of the Tribunal. It is further stated that some of the labour unions intended to terminate the said Award and raised further industrial dispute for revision of the consolidated rates of overtime payable to the crew of the pilot vessels and the disputes in this regard were referred to the Central Govt. Industrial Tribunal, Calcutta in Reference No. 17 of 1977 and Reference No. 44 of 1978 and the Tribunal in course of adjudication observed the following peculiar features in respect of the crew of the river going vessels like the pilot vessels : (1) They do not get a day off in the week; (2) They have irregular hours of work, including occasional overtime work beyond normal hours of duty, while on the river and it is not possible to compute such overtime work; (3) It is not possible for operational reason to fix hours of work or grant them a day off in the week; (4) They have to suffer the inconvenience of staying in the vessels to which they are attached for duty, for days together while the vessels are on the river beyond the port area; and (5) They have a comparatively easy time when the vessels are in Calcutta Port or laid down for repair although they have to do maintenance work and assist the workers engaged for such repairs. 50 per cent of the crew get shore leave and other 50 per cent have to do ship keeping duty by rotation of two or three workmen at a time. It is stated that in this context the Tribunal also observed that the compensatory facilities or benefits given to those workmen are that they are provided with (a) living accommodation in the vessel; (b) free ration or provisions for tiffin and meals alongwith services of cooks and other attendants for preparation and serving of food; (c) fixed recess for two hours; (d) more leisure on Saturdays and Sundays while in Calcutta, unless there is emergency and such leisure being taken as equivalent to 26 Sundays in a year; and (e) special leave for 26 days in a year. It is stated that having regard to the nature and condition of service of the workmen concerned who work in river going vessels the Tribunal considered that it would be fair to grant consolidated rate of overtime @ 73% of gross wages for estimated overtime work for 17½ hours per week beyond normal weekly working hours of 48 hours and the Award was passed accordingly. It is stated that while the Central Govt. exempted the CPT from the purview of Sections 13 and 14 of the Minimum Wages Act, the CPT was required to frame regulation and as per the regulation the employees working in the vessels are deemed to have worked for 65½ hours a week provided they were present on all days of the week. It is further stated that from the things stated above it would be clear that the consolidated rate of overtime at 73% of gross wages, free provisions etc. are available to the marine crew attached to the pilot vessels solely in consideration of the fact that the pilot vessels are river going vessels and the crew on board are required to face certain peculiar conditions when posted to work on board

such vessels. It is stated that such conditions are not universal for the marine crew of Calcutta Port Trust, unlike the general condition of service which are applicable to the marine crew as a whole irrespective of their place of duty. It is stated that Calcutta Port Trust had two pilot vessels, namely, P. V. Samudra and P. V. Sagar and since the vessel P. V. Samudra had outlived its operational life, a decision was taken for condemnation and early disposal of the vessel. It is stated that as the vessel could not be put in operation any more, the Board withdrew the marine crew from the said vessel and without going in for their retrenchment, kept the surplus crew in a pool at shore during normal office hours for registering their attendance without any work, pending adjustment against suitable alternative vacancies in other vessels. It is stated that while in the surplus pool, the crew members were not required to face any hardship or the conditions applicable on board pilot vessel and in accordance with the Minimum Wages Act the surplus crew was given a day off in the week and their usual pay and allowances were also paid. It is stated that the Calcutta Port Trust being an ideal employer did not contemplate any retrenchment of the surplus employees and instead had continued to pay them their normal pay and allowances as per the contract of employment and the Board also explored the possibilities of redeployment of the concerned surplus personnel against alternative vacancies in other Sections or units for the purpose of their full utilisation. It is stated that accordingly all the surplus crew members of the condemned Pilot Vessel Samudra had been deployed subsequently against suitable alternative vacancies on other vessels and crafts and they are enjoying consolidated overtime and other benefits as admissible against the posts in their new vessels and crafts. It has been further stated that in the background of the statements made above, it may be appreciated that the management of the Calcutta Port Trust did not withdraw any benefits admissible to the crew members while they were on board P. V. Samudra and that on condemnation of the said Pilot Vessel, the crew members were no longer required to be attached or posted on board the said vessel and they were also not required to be subjected to the condition of service applicable while on board the ships and that was why they were brought on shore and kept in a surplus pool with protection of their normal pay and allowances pending adjustment against alternative vacancies. It is stated that while attached to the surplus pool the concerned personnel were not required to perform any work as no work was available for them at the material time on any ship under the board and they were asked to register their attendance only during the normal working hours from 9.30 A.M. to 5.30 P.M. with recess of half an hour. It is stated that during this period they did not have any irregular hours of work, they did not suffer any inconvenience of stay in the vessel, they were not required to do any ship-keeping duty and they got weekly day of rest and were free to leave office after 4.30 P.M. everyday.

It is stated that as none of the conditions for payment of compensatory allowance and free provisions were fulfilled by the concerned surplus personnel, they did not make themselves eligible for the said benefits while remaining in the surplus pool. It is further stated that the benefits like compensatory allowance, free provisions etc. are supposed to be made available to the marine crew while they are on board a vessel and that while the concerned personnel were not on board the Pilot Vessel, the said benefits were not admissible to them. It is stated that in the circumstance, the action of the management in not granting the benefits like compensatory allowance and free provisions etc. to the marine crew of condemned Pilot Vessel Samudra cannot be termed as arbitrary, illegal or unjustified and the order appears to be fully justified, fair and legal and, therefore, the workmen are not entitled to any relief.

So far as the assertions and allegations made in the written statement of the Union are concerned, the management has categorically and specifically denied most of the allegations, excepting for those which are matters of records or facts. The management has admitted the statements made in paragraphs 1 and 2 of the written statement, but the allegations in paragraph 3 has been categorically denied and the union has been put to strict proof of it. It has also been submitted in this connection that in the recent past also when the Despatch Vessels 'Nadia' and 'Seva' under the Marine Dept. were condemned, the crew members were declared surplus to requirement and subsequently they were adjusted against suitable vacancies in different units or crafts. It is also stated that the concerned crew members are getting consolidated overtime allowance depending on their places of posting and entitlement of free provisions is also decided according to their place of posting. So far as the paragraph 4 is concerned, the management has denied the assertions and allegations made in it and it has been stated that the facilities like compensatory allowance and free provisions were not actually unilaterally withdrawn as alleged; rather, it was decided to condemn the vessel P. V. Samudra and thereafter the crew members were declared surplus. It is also further stated that the union raised an industrial dispute in this regard and as the Assistant Labour Commissioner had intervened in conciliation, the Board could not take further action in declaring the crew members as surplus and their subsequent adjustments against available vacancies under the Department. It is stated that from the genesis of allowing consolidated compensatory allowance to the marine crew, it is apparent that the compensatory allowance is payable depending on hours of work the concerned crew members are required to perform. It is stated that while they are posted in a river going vessel the crew members are deemed to have worked for 65½ hours a week provided they are present on all days of that week and accordingly become entitled to payment of consolidated compensatory allowance @ 73% and they are also entitled to free

provisions in terms of Regulation 3 of the then Commissioners for the Port. It is stated that this free provision has been made available to such crew members according to the Regulation of the Commissioners based on the scale laid down by the Central Govt. Industrial Tribunal, Calcutta in Reference Nos. 136, 137 and 140 of 1966. It is further stated that since it was not possible any further to keep the vessel P. V. Samudra in commission as it had outlived its operational life, it was decided to condemn the vessel and to deploy the concerned crew members against suitable vacancies without resorting to retrenchment as provided under the Industrial Disputes Act. It is stated that at this point of time the union raised an industrial dispute before the Conciliation Officer and during the pendency of the dispute in conciliation, such of the crew members of P. V. Samudra, who were officially declared as excess to requirement and were asked to report to the office of Harbour Master (River) for registering attendance, of their own volition requested the management in writing to arrange for their redeployment against alternative vacancies and on receipt of their applications, these crew members were adjusted against suitable vacancies under the department and since their adjustment, they are enjoying consolidated overtime allowance at the rate applicable to post where they have been so absorbed. It is further stated that during the period such of the excess of requirement crew members who gave their attendance only at the office of the Harbour Master (River) are not eligible for any consolidated overtime allowance or free provisions as they did not fulfil the conditions to be eligible for the same. It is further reiterated on behalf of the management that the payment of consolidated overtime allowance and entitlement of free provisions are purely positional and when a particular vessel is declared condemned, the management cannot be expected to make payment or supply free provisions to personnel hitherto attached to the said vessel without fulfilling the conditions to be eligible for the same. It has been stated in this connection that the management would have been justified to take recourse to retrenchment as provided under the Industrial Disputes Act, but the Calcutta Port Trust being a good employer tried to adjust all surplus personnel against posts carrying consolidated overtime allowance to the extent possible. It has been further stated that in the era of steep competition arising out of liberalisation and privatisation continuing to make payment to its workmen without fulfilling the conditions to be eligible for the same can be termed as suicidal for any organisation. It is stated that the present financial position of the Calcutta Dock System also does not permit to make unnecessary payment as the amount of consolidated compensatory overtime allowance and other facilities is substantial in view of the present wage structure of the concerned marine personnel. It is further stated that so far as the statement made in paragraph 5 of the written statement of the union is concerned, it is denied that the action of the management amounted to unfair labour

practice and it is further stated that after the crew members attached to P. V. Samudra were declared excess to requirement on condemnation of the vessel, the crew members were neither eligible for payment of consolidated overtime, nor to free provisions since they did not fulfil the conditions of eligibility for the purpose. So far as the contents of paragraph 7 is concerned, it is stated that the same are generally correct and are admitted as per record and so far as paragraph 8 is concerned, it is stated that the letter dated 01-06-1999 of the R. L. C(C) is also a matter of record. In this connection, it is stated that there was no violation of any provision of the Industrial Disputes Act. It is stated that in this paragraph the union also referred to the notice dated 26-05-1999 of the Director, Marine Dept. which is also a matter of record, but it is categorically denied that the said notice in any way dealt with reduction of pay as alleged by the union. It is further stated that due to issuance of the said notice, pay of any crew member was never reduced. It is stated that the said notice was issued in view of the necessity to declare P. V. Samudra as condemned which had outlived its operational life. It is further stated that pending their adjustment against alternative vacancies, the excess to requirement crew were advised to record their attendance in the office of the Harbour Master (River). In this connection, it is further stated that in terms of the said order deck crew members were declared to be no more attached to P. V. Samudra and thereby they ceased to be eligible for payment of consolidated overtime allowance and free provisions. It is further stated that so far as the statements of paragraph 9 are concerned, the same are denied and it is stated that the management did not adopt any unreasonable attitude or non-cooperative attitude during conciliation proceeding. On the other hand, the management persuaded the union to cooperate with the management to face the situation arising out of condemnation of the vessel aging and other factors. It is stated that had the union cooperated with the management in identifying the alternative vacancies, the concerned crew members could have been immediately adjusted elsewhere with the benefit of consolidated compensatory allowance to the extent possible. It is further stated that it is a matter of record that the concerned Regional Labour Commissioner submitted failure report under his letter dated 22nd July, 1999 and with regard to paragraph 10 of the W. S. it has been stated that save and except for the facts which are matter of record, the rest are opinion of the union, which is denied by the management. So far as paragraph 11 of the written statement is concerned, it has been denied that compensatory allowance or consolidated overtime allowance is part of pay. It has been stated in this connection that according to F. R. 9(21)(a) the pay has been defined as such :

"Pay means the amount drawn monthly by a Government servant as :—

- (i) the pay, other than special pay granted in view of his personal qualifications, which has been

sanctioned for a post held by him substantively or in an officiating capacity, or in which he is entitled by reason of his position in a cadre; and

- (ii) overseas pay, special pay and personal pay and
- (iii) any other emoluments which may be specially classed as pay by the President."

It is stated that the contention of the union that any past pay of surplus crew members used to be protected is not clear as while adjusting excess to requirement crew of P. V. Samudra, after the vessel was condemned, pay of none of the crew members was reduced. It is stated that so far as the statement in paragraph 12 of the W. S. of the union is concerned, the memorandum of settlement dated 03-04-1968 was reached before the R. L. C(C) is a matter of record. It is stated that it may be noted from the said settlement that the Calcutta Port Shramik Union had served a strike notice over a charter of demands and in terms of the said settlement issues contained in the strike notice was resolved. It is stated that however in the said settlement there was no such provision that the surplus staff would be absorbed against regular vacancies with all pay protection and existing benefits, as alleged by the union. Regarding paragraph 13 of the W. S. it is stated that Regulation governing the service conditions of the employees working in the vessels and shore stations/ parties in two parts are pre-requisites for the purpose of the exemption of the Minimum Wages Act, 1948 and the said regulations are very much in force. It is also further stated that the said regulations were adopted in terms of Resolution No. 1 of the then Commissioners in their meeting held on 24-01-1961 and it has been submitted that the Board had stated that Clause 6 should be dealt with in totality. It is further stated that as per Part-I of the said Regulations the employees attached to the vessels were to be deemed to have worked for 65½ hours a week provided they were present on all days of that week and for performing such duties the concerned employees were to be paid consolidated compensatory allowance in lieu of overtime wages @ 62½% of pay, which was subsequently revised to be 73% as per Award of the Tribunal in Reference No. 17 of 1977 and Reference No. 44 of 1978. It is further stated that under the circumstance the pre-condition for becoming entitled to consolidated compensatory allowance @ 73% of pay is that the crew members are attached to vessels and are present on all 7 days of the week. It is stated in this connection that when a vessel is condemned or a station is closed, the management is at liberty to utilise the concerned employees posted at vessel against alternative vacancies after declaring them as surplus. It is further stated that after declaring the crew as surplus and till their adjustment against alternative vacancies the Service Regulations are no longer applicable to them as they are not required to perform their duties beyond 48 hours a week and they are

also provided weekly day of rest as per the Minimum Wages Act, 1948. It is stated that for the purpose of declaring the employees surplus, the principle of 'last in first out' is applied and after their adjustment against alternative vacancies, seniority is fixed as per the Regulations of the Board framed under the provisions of the Major Port Trusts Act, 1963. According to the management it is categorically denied that once any crew member is declared as surplus and is attached to a surplus pool, he is eligible for consolidated compensatory allowance or benefits to which he was previously entitled due to his previous engagement. Regarding paragraphs 14, 15, 16 and 17 it has been stated that the same are matters of record and are admitted. Regarding paragraph 18, 19 and 20 it has been stated that these are arguments and opinion of the union and the Board does not admit it. Regarding paragraph 21 it has been stated that so far as reference to the Trustees Resolution No. 23 of the meeting dated 03-01-1990 is concerned, it is a matter of record which will be produced in due course. It is stated that in that resolution it was nowhere mentioned that the surplus crew members would be deployed in the existing vessels or other sections or establishments maintaining their original seniority with full pay protection including compensatory allowance or other benefits, which were available to them previously. Regarding the contents of paragraph 22 it has been stated that the union's contention are totally misconceived inasmuch as any question of so called protection of compensatory allowance or other benefits in respect of crew members declared surplus in a particular vessel and redeployed in other vessel does not arise as in such event, the concerned crew member is not entitled to consolidated compensatory allowance and other benefits as were admissible to him for working on a particular vessel which was declared condemned, but he is entitled to the compensatory consolidated allowance and other benefits as are admissible for working on a particular vessel on which he is redeployed. Regarding paragraphs 23 and 24 it has been stated that the allegations and assertions in these paragraphs are misconceived and are merely conjectures and surmises of the union and, therefore, the same are denied. In this connection, it has been reiterated that the consolidated compensatory allowance is admissible to the marine crew while on board the vessel under certain conditions of work and when the concerned persons are not required to be on board the vessel they do not fulfil the conditions applicable on board the vessel and, therefore, are not entitled to the said allowance. It is further stated that the same principle is applicable in the matter of grant of free provisions on board the vessel. It is further stated that the term pay refers to the basic pay and consolidated compensatory allowance payable under certain conditions of work can never form part of basic pay in any way. It has been further stated that the question of existing benefits can only arise where there is an existing right for the said benefits on fulfilment of conditions for admissibility of the said benefits and, therefore, the

argument advanced on behalf of the union is fallacious. It has been further stated that so far as paragraph 25 is concerned, the statement is totally misconceived and is not based on record. In this connection it is submitted that the regulation as quoted by the union specify certain service conditions for the crew members while on board the ship vis-a-vis the benefits admissible to them for performing work on board the ship under specified condition and, therefore, it is obvious that when the specified conditions are not applicable or not required to be fulfilled by the concerned employees, they are not entitled to the benefits as are admissible under certain conditions. So far as the statements in paragraphs 26 and 27 are concerned, it has been stated that it is merely an argument advanced on behalf of the union which is not admitted by the management. It has further been stated that it will not be out of place to mention in this connection that the Board of Trustees for the Port of Calcutta has been facing stringent financial condition with a large number of idle work-force and, therefore, under the present steep competition in the changed industrial scenario, it is necessary for the survival of the organisation to identify the idle-work-force and to utilise their services gainfully against alternative employment to avoid wastage of man-power. It has been further stated that as a good number of vessels and crafts belonging to the board had already outlived their lives or going to complete their normal economic life, it may be necessary to condemn those vessels and crafts and to dispose them of and for that reason it would be necessary to bring down the crew members from those vessels and crafts and to utilise their services in other vessels and crafts or in other areas of work as per the requirement. It is stated that in such a situation, the concerned crew members would be eligible to the benefits which are admissible for working in the new vessels and crafts or areas of work, but till such time alternative vacancies would not be available, it may be necessary to keep the concerned personnel in a surplus pool with protection of their normal pay and allowances, such as, Dearness Allowance, House Rent Allowance etc., but the Consolidated Overtime Allowance and free provisions cannot be available to such persons as it is not admissible to them. In this view of the matter, it has been submitted that the prayer of the union is not fit to be allowed and the workmen are not entitled to any relief whatsoever and accordingly the reference may be disposed of.

5. Several documents have been filed on behalf of both the parties and some of these documents are quite relevant and have been admitted into evidence. So far as the documents on behalf of the union are concerned, Ext. W-1 is the proceeding of the Commissioners for the Port of Calcutta of the meeting dated 8th July, 1958. Several matters were considered in the meeting and decisions were taken on these matters. In paragraph 35 the concerned matters have been dealt with. It has been stated that the problem of implementation of the provisions of the Minimum Wages

Act, 1948 has been exhaustively dealt with by the previous Chairman in his note to the Commissioners and it will be noticed that after taking due consideration of the fact that these men had sufficient spells of rest in between the spells of work, many of them cannot be granted a day off in the week which is compulsory even under the Act and almost all of them have either to put in some overtime work or remain in their vessel for long hours, which undoubtedly caused them inconvenience. So, the then Chairman had recommended the following compensatory allowance in respect of the staff mentioned below which was satisfactory to the union at that time : (a) Staff attached to Dredger and Despatch Vessels etc.—45% of the gross wages; (b) Crew of Pilot Vessels—Rs. 30/- per month; and (c) Crews of other survey launches etc.—30% of the gross wages. It has been observed in the proceeding that since because of the peculiar circumstances under which the crewmen of the vessels are to work it is very difficult to assess their overtime work from day-to-day and, therefore, a general view was taken that for the purpose of consolidated compensatory allowance in lieu of irregular hours of work and overtime work as well as ship keeping duty, the workmen shall be entitled to the payment @ 62½% of gross wages in case of Dredger & Despatch vessels, Launches and Pilot vessel. Ext. W-2 is the record of discussion between the management and the representatives of the workmen before the Labour Minister, Govt. of West Bengal on 07-06-1976. The controversy was raised on account of some workers of the vessels being declared surplus and after the matter was discussed it was observed in the proceeding that the Chairman assured that the pay and designation of the personnel who were excess to requirement, would be protected and every attempt would be made to deploy them against future vacancies, either in Calcutta or at Haldia and it was also further decided that for the boats or vessel to be decommissioned the number of crew being declared excess or surplus will be 'last come first go'. Ext. W-3 is the record of note of discussion held between the representatives of the union and the management regarding the proposed disposal of two vessels. It was held on 06-02-1982. From this document it appears that it was mentioned that the Chairman stated that apart from the fact that none would be thrown out of employment, the man rendered surplus would be suitably redeployed in alternative jobs and where called for, necessary training would also be imparted to them with full pay and it was also further observed that the total emoluments including the existing consolidated overtime would be protected as well. It has been further stated that the men at present working for 12 hours per day would continue to be so at other places where they might be shifted and the others doing 8 hours work, if 12 hours work was not available for all, and it was also further stated that minor changes could be introduced for this purpose, if necessary. By relying on this document the union has tried to impress that there was a complete pay protection in respect of the crewmen of the vessels to be rendered

useless or decommissioned. Ext. W-4 is the instruction issued by the Director of marine Department. It is dated 7th April, 1987. It related to the decommissioning of a vessel R.S.V. Pathfinder and in this connection the instructions issued go to show that the crew members in excess to requirement will be entitled to all benefits which are at present extended to the same category of the crew excess to the requirement, but will not be entitled to any night waitage, holiday allowance till they are actually deployed on board the other craft or vessel. It was also further observed that when vacancies arise, these people will be adjusted in the same vacancies with all their present benefits and at the rank which they are presently holding. Ext. W-5 is the proceedings of the Trustees of the Calcutta Port Trust dated 3rd January, 1990. Many matters have been dealt with, specially regarding surplus workers of Calcutta Port Trust. It appears that it was observed that the Chairman stated that out of the listed surplus workers, there were many young people and effort should be made to have them absorbed in other operational departments and the action was ordered to be taken in this regard. A list of such persons who were found to be surplus was also attached. So far as the Ext. W-6 is concerned, it is repetition of the same document which has already been marked as Ext. W-4. Ext. W-7 is a letter which appears to be addressed to the Director, Marine Department by some officer regarding some decision taken by the management and it has been stated that it was also decided that on such posting in the Mechanical Engineering Dept., the concerned persons would be allowed full protection of pay and allowances including consolidated overtime.

6. On the other hand, Ext. M-1 is the note of the Director, Marine Department which is also the same document, which has been marked Ext. W-4. Ext. M-2 is a notice issued by the Marine Department regarding the circumstances arising out of the decommissioning and condemning of the vessel P.V. Samudra. It has been stated that it was decided by the management to condemn the vessel and in view of this, save the following crew members for ship keeping duty on board the vessel, all other crew members of P.V. Samudra shall no longer be required to be attached to the vessel for want of work and accordingly they were advised to report to the office of the Harbour Master (River) or Engineer Superintendent as the case may be at 9.30 A.M. overday to register their attendance. It is further stated that the matter relating to their re-deployment against alternative vacancies is being looked into separately and pending such redeployment, they will be attached to the office in normal working hours and they will continue to get their usual pay and allowances (which are not positional) till they are redeployed against alternative vacancies. It is further stated that upon redeployment against alternative posts, they would enjoy the pay, allowances and other benefits admissible to the incumbent holding the said posts. Ext. M-3 is acknowledgement of the

notices served to some employees. Ext. M-4 series are the requests made by the individual workmen declared surplus on the decommissioning of P.V. Samudra for their redeployment in the alternative vacancy. It has been contended on behalf of the management in this regard that the union alleged in the written statement that during the pendency of the conciliation proceeding and in spite of some instruction issued by the Conciliation Officer, the management changed the postings of some of the persons concerned and thus they have disregarded the instruction of the Conciliation Officer, but actually the persons who were redeployed during that period were on the basis of their own request, which appears to be correct according to these letters of requests, Ext. M-4 series. Ext. M-5 is again the proceeding of the meeting of the Commissioners of the Port of Calcutta dated 24-01-1961. It appears from this document that several matters were discussed by the Commissioners during their deliberations and certain conditions were fixed for the persons working in vessels. It does not appear to be of much consequence. Ext. M-6 is the settlement on wage revision etc. dated 2nd August, 2000. In paragraph 19 of this settlement it has been stated that if any employee is asked by the management beyond prescribed working hours, overtime allowance will be paid as per relevant laws governing the payment of this allowance and full payment will not be denied.

7. The management has very much relied on the observation to the effect that it becomes clear that so far as basic pay and other admissible allowance are concerned, the workmen after being declared surplus on a vessel being condemned are entitled to pay protection, but because the consolidated overtime allowance does not form part of pay and is payable to the persons because of his performing special kind of arduous duty, unless the persons perform such kind of job, they are not entitled to it and there is no question of protection of any such overtime or free provisions to such workers, if they have the opportunity to get weekly day off and holidays and other facilities available to the ordinary workers. It has been pointed out in this connection by the management that actually from the evidence it will appear that some of such persons who are not redeployed are left without any work even, but as there is pay protection available to them, they get their full pay without working also, but so far as the payment of consolidated overtime allowance or free provisions are concerned, the workmen of this kind cannot be entitled to such protection, because the pre-condition of such facility is that they have to perform special kind of job in which they are deprived from enjoying weekly off-days and holidays etc. and they are forced to live on the vessel for much more than 8 hours per day or 48 hours a week. It has been submitted that the matter was settled on this very principle that because the crew of the vessels are supposed to be in the river for pretty long time and they do not get any leave or off days and their duty hours are also not

restricted according to the Minimum Wages Act, they have to be compensated by payment of consolidated overtime, which was calculated by the Tribunals on occasions. In this connection it is important to note that first of all the calculation was made by this Tribunal in 1967 in Reference Nos. 136, 137 and 140 of 1966. In the Award of the Tribunal it was held that the demand of the workmen for revision of the consolidated rates of overtime payable to the crews of Pilot Vessels, Dredger, Despatch and Light Vessel Survey and Research Vessels and attached launches and Shore Stations is not justified and the rates agreed in July, 1958 should continue except that so long as one launch attached to the Hooghly Point Station serves both the Survey party and the Sounding party, the crew of the launch should be paid an additional consolidated compensatory allowance of 12½ of the gross wages over and above 50% which they are entitled under the resolution of July, 1958. It was also stated that the ad hoc increase of 5% which was agreed by the Commissioners on 28th December, 1964 under the threat of strike should be withdrawn with effect from first of the month next after the publication of the Award. It was also further stated that the additional allowance of the crew attached to the launch at Hooghly Point Station, so long as it serves both the Survey Party and the Sounding Party, should also be payable with effect from the 1st of the month next after the publication of the Award. It appears that thereafter the matter of revision of this consolidated overtime was again considered by this Tribunal in Reference No. 17 of 1977 and Reference No. 44 of 1978 by an Award dated 30th December, 1986. The Tribunal held "The demands of the workmen for revision of the consolidated rates of overtime payable to the concerned workmen are partly justified. The consolidated rate of overtime payable to crew of pilot vessels, dredgers, despatch vessels, survey and research vessel and attached launches should be revised from 67½ per cent to 73 per cent of gross wages. The consolidated rate of overtime payable to crews of light vessels, shore stations/survey parties and other river going launches should be revised from 55 per cent of gross wages to 58 per cent of gross wages. The upward revision shall take effect from the date of demand i.e., 4th March, 1977. In this connection, it is important to note that regarding the issue 1(b) it was held by the Tribunal "The demand of the workmen for revision of consolidated rates of overtime payable to the crews of port based vessels/crafts under the Harbour Master (Port) and shore based marine crews working in 12 hours shift as mentioned in this issue are not justified and they are therefore not entitled to any relief on this count." Similarly, the demand of the marine crew working in 12 hours shift system for grant of mess allowance for the period of their active duty within the limits of Calcutta Port was also not held to be justified.

8. So far as the oral evidence is concerned, two witnesses have been examined on behalf of the union and one witness has been examined by the management.

WW-1. Suresh Chandra Majumdar is presently working at Pilot Vessel Sagar of Calcutta Port Trust. He is a Lascar Grade I. According to him earlier he worked on the R. S. V. Pathfinder which now stands condemned. According to him when he was working on Pathfinder, apart from salary, he was getting the facilities of free ration and consolidated allowance. According to him, he was declared surplus due to the vessel being rendered condemned. Thereafter he was asked to go home and report after a week at fair field office. Accordingly, he reported there and subsequently he was adjusted to another vessel. He has stated that during the period he was treated as surplus, he was given all his salary and allowances, including the free ration. According to him on the vessel he was declared surplus in the year 1985 and he was adjusted on vessel Sagar on 1st June, 1988. Regarding his claim of getting the allowances in spite of his being surplus, he was asked whether he has got the pay slip to support it and he said that he could produce it, but it has not been produced.

WW-2, Bhupen Krishna Chowdhury has stated that he has been working as Lascar in Pilot Launch Gopal and earlier he was on vessel Mohana. According to him he was there since 1965 as Lascar and his salary is paid with consolidated overtime and free ration. According to him, he was in Mohana till 1988 and thereafter the ship was condemned. He further stated that after it is being condemned he used to give his attendance in the office and he was getting the same amount as he used to get on ship prior to its condemnation. According to him, he continued to get the usual allowances on being declared surplus also and thereafter he was posted on dry dock. In his cross-examination, he has admitted that while he was declared surplus, he had no duty to discharge and he cannot say as to for what time he was treated surplus. It has been suggested to him that it was because the management had agreed to pay overtime etc. during the surplus period under threat of strike by workers, but he denied it.

9. On the other hand, MW-1. Prabhat Kumar Chattopadhyay happens to be an officer of the Establishment Section in the Marine Department of CPT since February, 1994. He has stated that the employees of the Marine Dept. attached to vessels and crafts are generally covered by the Minimum Wages Act and the Trust had taken exemption from the Government regarding application of the Act under Sections 13 and 14. He has also stated that the persons attached to the Marine Department on vessels and crafts cannot be given fixed working hours and fixed weekly rest day. He also stated that the Trust has got its regulation to control the services of the persons working on vessels and crafts. It is stated by him that for compensating the loss caused by non-application of the Minimum Wages Act, the Trust used to pay compensatory allowance to such workers and free ration also. According to him such compensatory allowance was 73% for 65½ hours of work a week. He has also stated

that those whose working hours is supposed to be 62 hours a week get 58%. He has also stated that those who are not subjected to this condition are not entitled to get compensatory allowance and free ration. He has also stated that the vessel Samudra was declared condemned in June, 1998 and prior to condemnation, persons working on board the vessels were getting those facilities. According to him after condemnation of the vessel, few persons were retained in it for security and the rest of the persons were asked to report to the office and accordingly they reported. He further stated that subsequently they were redeployed against alternative vacancies. He also stated that the persons thus redeployed on vessels are getting those facilities, but those who were not on board the vessel are not getting the same facilities. He has also stated that the persons declared surplus and relieved from the vessel were not subjected to the conditions for the persons working on board the vessels and so they were being paid usual pay and allowances during the period. He has also stated that the persons declared surplus had approached the management to absorb them and alternative arrangement was made on their own request. He has also further stated that one vessel, D. V. Nadia was earlier condemned in the year 1997 and another vessel D. V. Seva was also condemned. He has stated that in case of those two vessels no compensatory allowance and free ration were given to the employees after they were declared surplus. He also further stated that out of the persons declared surplus, those who were adjusted against the vessel or craft are given compensatory allowance and free ration.

10. Now the question is whether the decision of the management is proper or not in not allowing special fixed overtime to the persons declared surplus and not redeployed on any other vessel. The contention on behalf of the union is that since on several occasions in course of discussions assurances were given to the workers that even in case of their being declared surplus, they shall be given pay-protection and it has been submitted that the pay-protection includes the protection of the compensatory consolidated overtime. But, it has been submitted on behalf of the management that the claim of union could not be appreciated, because the assurance always meant that the workers declared surplus after condemnation or decommissioning of a vessel shall get their pay-protection and because the pay does not include the compensatory consolidated overtime, the contention of the union cannot be accepted. It has been submitted that the very purpose and reason behind allowing consolidated compensatory allowance is that the workers on board the vessel or craft have to remain out of soil and in the river for pretty long time and they are supposed to be not availing the weekly off-days or holidays also and they also remain away from their family during the period, they require to be compensated, specially because they have to work not in accordance with the provisions of the Minimum Wages

Act also regarding which exemption was sought by the management. It is submitted on behalf of the management that if the person is relieved of his duty on board a vessel or craft and is supposed to remain in the office on shore, he is not to perform any duty of the kind of crew members of a vessel and he also does not suffer any rigor of being off the shore for the entire week and is deprived of the weekly off-days also and other holidays. It is stated that when such person is reporting to the office in regular course, he gets off-days and holidays also and, therefore, there does not appear to be any rationale behind allowing such kind of special payment in the form of consolidated compensatory allowance or free provisions and there does not appear to be any justification in such demand. It has been submitted on behalf of the management that the only understanding given was that the workmen even after being brought to the shore on a vessel being condemned or decommissioned will get protection to this effect that they shall not be retrenched or removed from service and that they shall continue to get their regular pay, but there cannot be any justification in claiming any special kind of payment related to the special kind of job which he has to perform on board the vessel or craft. It has also been submitted that after a crew member is declared surplus, because he has no work to do, it becomes the responsibility of the management to adjust them to some other suitable job. The decisions arrived at in course of discussions in the matter have also laid down that the workers shall not be retrenched after being declared surplus and they shall be given protection of pay and shall also be redeployed on suitable job. So much so, it was suggested that if such crew member is not fully acquainted with another kind of vessel or craft, he should be imparted training for that purpose and should be redeployed, but in any view of the matter, there cannot be any justification in demanding protection of the special payment like Compensatory Consolidated Overtime and free provisions. It has been submitted that the pre-requisite of getting the Compensatory Consolidated Overtime and free provisions is that the person is supposed to remain on board the ship away from shore continuously for several days and is not supposed to avail the weekly off-days or the holidays, he requires to be suitably compensated and in the two Awards earlier passed by this Tribunal this amount was calculated and fixed which was ultimately decided to be 73% of the gross wages of such workman, but if the workman is not supposed to suffer any loss when he is not on board, there does not appear to be any justification in allowing such facilities to him. It has also been submitted that in this case, so far as the management is concerned, the management has already adjusted the workmen concerned on some other vessels or crafts on their own request and the management cannot be blamed that they are not looking to their interest or that the management is callous to them. It has been submitted, on the other hand, the difficulties were being created by the union itself. It has been stated

that when the matter was taken to the Conciliation Officer, the union itself made a prayer to the Conciliation Officer that any change in their service condition or any change in their status should not be made. Therefore, the management was handicapped to adjust them on redeployment. However, when the individual crew members made request to the management that they should be suitably redeployed, such redeployments have been made and the special facilities granted to the crew members as above, have also been allowed to them. It has been pointed out that this is the circumstance under which none of the persons of the crew members of the concerned vessel Samudra has come forward to depose in this case also and only the two persons have deposed on behalf of the union, who are not concerned with the vessel in question. It has also been pointed out that these two witnesses have claimed that even though they were declared surplus before their being readjusted, they were getting those benefits, but there is no material to support their claim. Moreover, it has been pointed out that if under the pressure of the union, any such relaxation was given by the management, it cannot become a precedent, as there does not appear to be any justification in allowing continuance of the special benefits to the persons not doing that kind of job.

11. It is important to note in this connection that a writ petition was also filed in this connection before the Hon'ble Calcutta High Court and in W. P. No. 2455 of 1998 the Hon'ble Judge of the High Court dealt with the matter. In this case also the petitioners had contended that after being declared surplus on the vessel being declared condemned and non-operational, they were not deployed and were advised to report for duty to the office under the Marine Department and, therefore, they contended that their service benefits, specially the Overtime Allowance was being withheld. It appears that after hearing the parties and considering the claims His Lordship observed like this: "After considering the contentions of the respective parties and perusing the materials available on record, I find contention of the petitioners that they were entitled to overtime allowance as a service condition is not acceptable. Various materials on record relied on by the respective parties at the time of hearing supports my such finding. Law relied on by the petitioners also do not show any absolute right to overtime allowance in the present facts." However, the Hon'ble Court had observed that the question of the posting of such persons and their readjustment should be considered by the management.

12. Now, it is clear that the desired readjustments have already been made and the facilities to the crew members declared surplus on the vessel P. V. Samudra being declared condemned have been restored to them.

13. The action of the management, in the circumstance, cannot be treated either unreasonable and improper or illegal and arbitrary. There does not appear to be any reason to interfere in the matter. The reference is

accordingly decided and answered and it is hereby held that the workmen represented by the union herewith are not entitled to any relief what-so-ever.

B. P. SHARMA, Presiding Officer

Dated, Kolkata,

The 1st January, 2003.

नई दिल्ली, 17 जनवरी, 2003

का. आ. 571.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, यूको बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पूणे के पंचाट (संदर्भ संख्या 42/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-2003 को प्राप्त हुआ था।

[सं. एल-12011/151/2001-आई.आर.(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 17th January, 2003

S.O. 571.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 42/2001) of the Industrial Tribunal Pune as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of UCO Bank and their workman, which was received by the Central Government on 17-1-2003.

[No. L-12012/151/2001-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI J. L. DESHPANDE, INDUSTRIAL
TRIBUNAL, PUNE

REFERENCE (IT) NO. 42 of 2001

BETWEEN:

UCO BANK

... First Party

AND

Their Workmen

... Second Party

In the matter of:

Reference for adjudication of the dispute over the demand of the UCO Bank Workers' Organisation that Officiating as Head Cashier should be given to the employees by the Management of the UCO Bank on the basis of the seniority irrespective of whether the person concerned is drawing any lower functional allowance—permanently . . . as more elaborately mentioned in the Schedule to the order of the Reference.

APPEARANCES:

Shri P. R. Ranade, Union Representative for the
Second Party—Workmen.

Shri B. T. Mali, Representative of the First Party—
Bank.

AWARD

30th November, 2002

1. This is a Reference made by the Central Government under clause (d) of sub-Section (1) and sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, to adjudicate upon the demand made by the second party Union.

2. The first party UCO Bank (hereinafter referred to as "the Bank" only) is having its Regional Office at Bombay and the Branches at Pune-Camp and Pune City. The second party UCO Bank Workers' Organisation is a Union, which represents the employees of the Bank. There had been promotion policy settlement between the Unions of the workmen on the one hand and the Management of the Bank, on the other, on 13-4-1988. The said promotion policy governs certain subjects, amongst the other, officiating arrangement and the officiating allowance. As per the Promotion Policy Settlement (hereinafter referred to as "the P. P. S.") in place of the Head Cashier/Chief Cashier, the acting arrangement may be made in respect of the minimum period of the absence of the permanent incumbent. Seniority for the purpose of the officiating/temporary performance of the duties carrying notional allowance will be reckoned, branch-wise.

3. It is the case of the second party Union that the employee, by name, A. R. Natu, who was working as Computer Terminal Operator, at Pune Camp Branch, was eligible for officiating in the Cash Department, in the absence of Chief Cashier of the Branch, during the period from 3-8-1999 to 13-8-1999. Thus, he being the senior most eligible employee, he was entitled to officiating but the Branch Manager did not allow him to get officiating and violated the provisions of the P. P. S. The Union has also referred to the similar instances with regard to the employees by name (1) R. N. Garud, and (2) Y. U. Paranjape.

4. The Union approached the concerned officers of the Government and raised an industrial dispute. Ultimately, the dispute came to be referred to this Tribunal, for adjudicating of the demand, as mentioned in the Schedule below the order of the Reference, which is as under:

The Schedule to the order of Reference.

"Whether the demand of the UCO Bank workers' Organization that officiating as Head Cashier should be given to the employees, by the Management of UCO Bank, on the basis of seniority, irrespective of whether the person concerned is drawing any lower functional allowance permanently or not is legal and justified? If yes, what relief the concerned employees Shri A.R. Natu, Shri R.N. Garud, and Shri Y.V. Paranjape, are entitled to and from which date?"

5. On receipt of the Reference, the notices were issued to both the parties. The second party Union appeared and filed its Statement of claim at Exh. U-2. I need not reproduce the contentions in the Statement of claim, since I have already referred to them, while narrating the facts of the case.

6. The first party management filed its written statement at Exh. C-4. According to the Management, there had been settlement on 13-4-1988 which is referred to as the Promotion Policy Settlement (P.P.S.). There was need for rationalisation and restricting the unchecked officiating arrangement which led to memorandum of Understanding, signed by the Management and the Union on 16-5-1997. As per the memorandum of Understanding (hereinafter referred to as the M.O.U.), it was decided that there cannot be automaticity in allowing the officiating allowance. Certain broad principles were laid down with regard to the officiating arrangement at the Branches/Administrative Offices. In pursuance of the M.O.U. the first party Management issued the Circulars, dated, 24-4-1999 and 28-6-1999, which govern this subject. According to the Circular, dated 24-4-1999, the employee holding any functional allowance bearing post, is not entitled to officiating. Thus, the officiating would not be given or allotted to the employee, who is already occupying the post, which entitles him to receive the functional allowance. The Branches were directed to follow the Circulars, scrupulously. According to the Bank, these employees were not given the officiating, on the basis of guide-lines issued in the N.O.U., dated 16-5-1997 and the Circulars, dated 24-4-1999 and 28-6-1999, which came to be issued pursuant to the above referred M.O.U. Thus, the Management denied the justifiability of the demand.

7. The second party adduced the oral evidence and produced certain documents. The first party Management did not lead any oral evidence, but relied upon certain documents.

8. On the basis of the oral as well as the documentary evidence, I now proceed to adjudicate the dispute over the demand under the present Reference.

9. The second party examined its employee Yeshwant Vasant Paranjape (UW-1), who at the material time, was working as the Encoder, with Pune City Branch. He stated that he was eligible for the officiating in the vacancy of the Head Cashier. He proved the office copy of the letter Exh. U-10, under which he made request for officiating for the head cashier. According to him, however, he was not given officiating and junior employee was given the said officiating and thereby, he suffered monetary loss at the rate of Rs. 250 per month, for more than six months. During the cross-examination, he admitted that he used to get permanent allowance for the post of Encoder.

10. The next witness examined by the second party Union is Ravindra Narayan Garud. (UW-2) and he was

working as Data Entry Operator, at Pune City Branch and he was eligible as a substitute for the Head Cashier or special assistant. According to Mr. Garud, during the period of August 1999, the post of the Cashier at the said Branch was vacant because of the transfer of the officer. He made request, vide his application Exh. U-9, for officiating, but it was refused, though he was eligible for the said officiating. During the course of cross-examination, he admitted the Circular, dated, 24-4-1999, Exh. C-15 and another Circular, dated 28-6-1999, Exh. C-16. He further admitted that as per the Circulars, he was not eligible for officiating. In the next breath, however, he stated that he was eligible.

11. The First Party Management produced certain documents with the list Exh. C-7. All the documents came to be admitted by the second party Union. At Exh. C-14, there is copy of the Memorandum of Settlement, dated, 13th April, 1988. The settlement was signed by the Representatives of the Management, on one hand and the representatives of the Union, on the other. It appears from page No. 1 of the Settlement that the present Union, i.e. UCO Bank Workers' Organisation was not a party to the settlement, but the other three Unions were the parties to the said Settlement. Clause No. 6(1) pertains to the *temporary officiating or performance of the duties carrying the functional special allowance*. It reads as follows :—

“Entrustment of duties carrying functional special allowance or attracting officiating allowance under Bipartite Settlement on temporary basis shall be made in the exigencies of the Bank's work and requirements. Temporary arrangement may be made where in the opinion of the management such arrangement is called for on the basis of actual need and exigencies of work and the decision of the Bank in this regard, shall be absolute and final.”

12. According to the Management, there had been Settlement, in the form of the Memorandum of the Understanding on 16-5-1997 (Exh. C-13), which was signed by the representative of the Management on one hand and the representatives of the concerned Unions, on the other. The name of the present second party Union does not figure in the said settlement which is referred to by the parties as the Memorandum of the Understanding. Clause No. 10 of the Memorandum of the Understanding (M. O. U.) is material having bearing on this subject. It reads as follows :—

Clause No. 10 of Memorandum of Understanding : (Exh. C-13).

“We agree that officiating allowance will be payable only for the performance of higher responsibility as per settlement/Service Regulations and it will be need based. There will be no automaticity in allowing officiating allowance.”

13. In pursuance of this M.O.U., the Bank issued the circular, dated 24-4-1999, Exh. C-15, and another Circular, dated 28-6-1999, Exh. C-16. Vide Circular, dated 24-4-1999, the Bank issued guide-lines, in the matter of officiating and vide condition No. 3 under the Caption *General Conditions*, it was made clear that the employee shall be eligible for the officiating, who is not working on any functional allowance bearing post. To put it otherwise, and to make it simple, the employee earning the functional allowance, by virtue of his post, was disqualified from getting officiating. Witness Mr. Garud, (UW-2) examined by the second party Union admitted these two Circulars and further admitted that as per those Circulars, he was not eligible for officiating. Even Mr. Paranjape (UW-1), during the course of his cross-examination, admitted that the M.O.U., Exh. C-13 and the Circulars Exhs. C-15 and C-16 contained the provisions regarding the officiating. He further admitted that the employee getting the permanent allowance in certain category would not be eligible for temporary officiating allowance in the higher grade. It is thus, seen that the employees, who had expressed the grievance of discrimination and not giving of officiating and breach of the settlement, dated 13-4-1988, were disqualified on account of the fact that they were getting the functional allowance, by virtue of holding of a particular post.

14. In order to over-come this and to neutralise the effect of the Settlement, Exh. C-13 and the two Circulars Exhs. C-15 and C-16, second party Union took a stand in the written arguments that the M.O.U. Exh. U-13, dated, 15th May, 1997, was not signed by the Union and therefore, it is not binding on them. For that matter, the first settlement, dated 13-4-1988, Exh. C-14, was also not signed by the representatives of the second party Union, because the second party Union was not a party to the said settlement. Still then, the second party Union claims the benefits of the said settlement and certain advantages for its members. The subsequent settlement, Exh. C-13, M.O.U. was signed by the representatives of the same Unions, who had signed the earlier settlement of the year 1988. The subject of the 'Officiating' first appeared in the settlement of the year 1988 and the provisions in Clause No. 10 of the M.O.U. Exh. C-13 of the year 1997 was in the form of extension of the earlier settlement of the year 1988. Obviously, the Circulars, dated 24-4-1999 and 28-6-1999, were issued in pursuance of the M.O.U. of the year 1997. Thus, all these documents are part of the same package and on making claim of certain advantages on the basis of the settlement of the year 1988, it does not lie in the mouth of the second party Union now to contend that the M.O.U. of the year 1997 is not binding on it because the second party Union had not signed the same or it was not a party to the same. In this regard, reference can be usefully had to the Supreme Court decision in the case of *Ram Pukar Singh and others Vs. Heavy Engineering Corporation and other.* (1995-1

L.L.J. Page 214) in which the Supreme Court found that the workmen, who were not the parties to the earlier settlement, had received the benefits of the said settlement, and, therefore, the said settlement was binding on them. Therefore, on expressing the grievance as regards the breach of the settlement of the year 1988 at the hands of the first party Management, the second party Union is estopped from contending that the subsequent settlement and the Circulars are not binding on the second party Union. This being the position, the M.O.U. of the year 1997, (Exh. C-13) and the Circulars Exhs. C-15 and C-16 would be equally binding on the second party Union. As pointed out above, there is provision in the M.O.U. (Exh. C-13) that the officiating shall not be automaticity and there is provision in the Circulars which debar of disqualifies the employees from getting the officiating, who is getting the functional allowance, by virtue of any post. held by him, with the first party Bank.

15. As seen above, the settlement of the year 1988, M.O.U./Settlement of the year 1997 and the Circulars of the year 1999 are the integral part of the same scheme, which, amongst the other subjects, govern the subject of 'officiating'. It appears that in the course of time and to over-come the financial difficulties, the Bank thought it proper to effect the rationalisation and put certain restrictions vide the settlement of the year 1997, by making the provisions that the 'officiating' shall not be the 'automaticity'. The employees, who are the members of the second party Union, claimed the benefits under the settlement of the year 1988 and they cannot avoid the effect of the subsequent settlement of the year 1997 as well as the Circulars, issued by the first party in the year 1999, in pursuance of the settlement/M.O.U. of the year 1997. If read as a whole, the demand of the second party was rightly turned down by the first party Management, since workmen were not entitled to the same.

16. For the foregoing reasons, I hold that the demand made by the second party Union, the dispute over which is sent for adjudication to this Tribunal, is not legal and justifiable and hence the said demand is liable to be rejected. Hence, I proceed to pass the following Award.

AWARD

The demand of the second party Organisation/Union, that the officiating as Head Cashier should be given to the employees, on the basis of the seniority is not legal and justifiable and hence the said demand is rejected. No orders as to the costs. Award is made, accordingly.

J. L. DESHPANDE, Industrial Tribunal
30th November, 2002.

नई दिल्ली, 20 जनवरी, 2003

का. आ. 572. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भा. को. को.

लि. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण I, धनबाद के पंचाट (संदर्भ संख्या 106/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-03 को प्राप्त हुआ था।

[सं. एल-20012/225/93-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 572.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 106/94) of the Central Government Industrial Tribunal I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of B.C.C.L. and their workman, which was received by the Central Government on 17-1-03.

[No. L-20012/225/93-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. I, DHANBAD

In the matter of a reference under Sec. 10 (1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 106 of 1994

PARTIES: Employers in relation to the Management of
Dugda Coal Washery of M/s. BCCL

AND

Their Workmen

PRESENT:

SHRI S. H. KAZMI,
Presiding Officer

APPEARANCES:

For the Employers : Shri B. M. Prasad, Advocate

For the Workmen : Shri B. Lal, Advocate

State : Jharkhand Industry : Coal

Dated, the 8th January, 2003

AWARD

By Order No. L-20012/225/93-I.R. (Coal-I) dated, the 27th April, 1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Dugda Coal Washery of BCCL, P.O. Dugda, Dt. Dhanbad in not regularising S/Sh. Moti Mahato and 21 others (as per list attached) is legal and justified? If not, to what relief are the concerned workmen entitled?”

2. During the pendency of the instant reference two written statements have been filed on behalf of the workmen. One was filed at the very initial stage by the sponsoring union and another was filed in the year 1995 by the concerned workmen themselves with the permission of this Tribunal as they submitted that they are no more members of the sponsoring union and for the ends of justice they be allowed to be added as parties for pursuing the present reference by engaging a lawyer of their choice. Anyway, as per the contents of these written statement, the case of the concerned workmen, in short, is that Dugda Coal Washery is owned and managed by M/s. BCCL and in the said washery in course of washing coal the incidental job of plant cleaning and removal of dust and slippage are also performed permanently and continuously and those jobs are regular and perennial. It has been said that the workmen concerned have been employed in the said jobs of plant cleaning and removal of slippage since 1980 regularly. It is said that those jobs inside the premises of the concerned washery have been prohibited to be done by the contractor engaged by M/s. BCCL, by the Government after due notification under the Contract Labour (Regulation & Abolition) Act, 1970. Further it has been said that in the year 1979-80 the management of Dugda Coal Washery departmentalised and regularised the job of about 161 workmen, who were then engaged in the jobs of plant cleaning and removal of slippage but later those workmen whose services were regularised were transferred to some other jobs. The management thereafter again employed another set of workmen to do the same job of plant cleaning and slippage and showing them as employees of different contractors as a camouflage. It has further been said that the workmen concerned alongwith many others were employed in the job of plant cleaning and removal of slippage through the so-called contractors as the vacancy occurred when the aforesaid regularised workmen as stated above were transferred to some other jobs. Further the case is that an industrial dispute was raised on behalf of 161 workmen doing the same job as that of the workmen concerned by their union, namely, Janta Mazdoor Sangh and as the matter could not be settled, during the conciliation proceeding, the Central Government was pleased to refer the case of those 64 workmen for adjudication to the Central Govt. Industrial Tribunal No. 1, Dhanbad. In the said reference being registered as Reference No. 258 of 1990, the Tribunal passed the award in favour of those workmen and direction was made for their regularisation. The management challenged the said award before the Hon'ble High Court by filing a writ petition being number as CWJC 157/93(R) but the same was dismissed by the Hon'ble Court by its order dated 17-1-1994 and direction was made to the management for giving employment to all those workmen immediately and also to pay arrears of wages. It has been said thereafter that the management implemented the order of the Hon'ble Court and gave employment to all those 64 workmen. It is

said that the case of the concerned workmen of the present reference is on the same footing as that of those 64 workmen who have already been employed by the management of Dugda Coal Washery as per the direction of the Hon'ble Court and further that the concerned workmen have already completed more than 240 days in a year since 1980. Industrial dispute was raised on behalf of the workmen concerned by their union, namely, Bihar Colliery Kamgar Union on 30-10-91 demanding regularisation of the workmen concerned on their job of plant cleaning and removal of slippage, but the conciliation proceeding failed and later the dispute was referred to this Tribunal for adjudication. It has been said that although the workmen concerned have been doing the job of plant cleaning and removal of slippage inside the premises of the said washery which are permanent and perennial nature of job, but the management of the washery have not been paying the wages and other benefits as being given to regular and departmental employees doing the same nature of job and they have introduced an illegal and unconstitutional device to deprive the workmen concerned of their legitimate benefit of regular employees by showing them as employees of different contractors. It is said that those contractors who are being shown as immediate employer and not the independent contractor and they have not control and supervision over the job of the workmen concerned. They neither provided any tool nor instrument nor any store materials required for the job of plant cleaning and removal of slippage and they simply submit the bills and pay the workmen concerned as was being done in the case of 64 workmen prior to the regularisation of their service. During the pendency of the dispute, it is said, the management stopped the working of these workmen w.e.f. 18-2-93 without giving any notice, notice pay or compensation as required under Sec. 25-F of the Industrial Disputes Act. It has also been said that the management resorted to unfair labour practice and deprived the concerned workmen of all the benefits of regular employees through unfair device of showing them as employees of contractor who had never been independent contractor. The action of the management as such has been described as illegal, unjustified and the demand has been made for regularisation of the concerned workmen with all benefits and proper wages as are being admissible to a regular employee.

3. The management's case, on the other hand, as disclosed in its written statement is that the concerned persons were never selected and recruited by the management and they were also not paid by the management. It has been said that the concerned persons have not disclosed the name of the contractor and the work order as against which they worked at different periods of time and their assertions that they had worked as plant cleaning mazdoors are false and concocted and they are merely job seeker who have advanced a false and fabricated case through the sponsoring union for getting employment

under the management of M/s. BCCL. It has further been said that even if some of them or any of them are workmen under any contractor, they were never engaged as plant cleaning mazdoors and the management did not award contract on the jobs of plant cleaning and so it is absurd to suggest that the concerned persons worked as plant cleaning mazdoors under any contractor. Further, the case is that the management awarded contract to different persons at different points of time on different nature of jobs which are temporary in nature or are intermittantly available. No contractor was engaged on any jobs which have been prohibited by any notification issued by the Government under Sec. 10 of the Contract Labour (Regulation & Abolition) Act, 1970. It has been said that in course of conciliation proceeding the union representative disclosed that some of the concerned persons had worked under the contractor, Swami Nath Prasad on the jobs of rehandling of coal during the 1989-90 and then on examination of records relating to the contracts awarded to the said person it transpired to the management that he was awarded contract for miscellaneous nature of jobs available from time to time by work order issued in his favour during the period 1989-90. It is said that if any of the concerned workmen has ever worked as contractor worker under the said contractor, he would have been engaged on such jobs awarded to the said contractor. It has also been said that the contention of the sponsoring union that the concerned workmen were working as plant cleaning mazdoors is obviously false and has been made out with the sole motive of getting employment under the management taking advantage of some awards passed in the case of some plant cleaning mazdoors. It is also said that no permanent vacancy exists on the post of plant cleaning mazdoors and so there is no question of regularising the contractor workers on that job. Lastly it has been said that the demand raised is without any merit and the concerned persons are not entitled to any relief whatsoever.

4. In its rejoinder also the management has denied or controverted several averments made in the written statement of the concerned workmen and reagitated its stand that there has never been any relationship of employer and employees between the concerned persons and the management and at best they were workmen of the contractor having been engaged in miscellaneous nature of job.

In the rejoinder filed on behalf of the workmen also several statements made in the written statement of the management have been controverted and it was again asserted that the concerned workmen were the workmen of the management and not of any contractor, as alleged.

5. Considering the stands taken by the parties, as noticed above, it is apparent that moot question involved in this case that requires consideration is whether at all there was any relationship of employer and employees

between the concerned workmen and the management and also whether the concerned workmen can be taken to have performed the jobs of permanent and perennial nature under the management continuously for years together or for more than 240 days in one calendar year.

6. In support of their respective stands both the sides have led their oral as well as documentary evidence. Two witnesses were examined on behalf of the management and likewise three witnesses were examined on behalf of the workmen. As far as documents are concerned two documents were filed and exhibited on behalf of the management which are marked Exts. M-1 and M-2 and which are photo copy of a letter and its enclosures. Likewise from the side of the workmen three documents were filed and marked Exts. W-1 to W-3 which are series of letters of a contractor, copy of order of Hon'ble High Court and copy of the award passed in another reference case. The significance and relevancy of those materials would be considered in course of discussions made hereinafter.

7. It is evident that the definite stand of the concerned workmen is that they worked as plant cleaning mazdoors since 1980 continuously and in course of their engagement they put in attendance for more than 240 days in each calendar year. Further their stand is that the nature of jobs performed by them are of permanent and prohibited nature and the management despite having full control and supervision on the working of the workmen had been disbursing their wages in the name of intermediary or contractor, just in order to camouflage the real issue and the so-called contractor was never appointed as an independent contractor having control and supervision on the works of the workmen concerned.

The concerned workmen are also taking the help of an award passed in favour of some other workmen performing the same nature of job in the same washery of the management.

The management's definite stand, on the other hand, is that the concerned persons were never employed or engaged by the management and the management never had anything to do with their working or the payment of wages to them. Further, according to the management, at best the persons concerned can be taken to be the contractor's workmen engaged for performing miscellaneous nature of job whose wages were paid and whose works were supervised by none other than the contractor.

8. It is apparent that the concerned workmen have acknowledged the presence of contractor or intermediary but they say that it was just to camouflage the real issue as through the said contractor only the wages used to be disbursed and he never had any control or supervision over their works.

Significantly, in none of the two written statements filed on behalf of the workmen the name of the said

contractor has been disclosed nor there is any mention about other relevant aspect relating to the engagement of any contractor. It is only the management in its written statement mentioned that during the conciliation proceeding the union had taken the name of one Swami Nath Prasad as a contractor under whom some of the workmen worked on the jobs of rehandling of coal during the period 1989-90. Thereafter in reply to such statement it was mentioned in the rejoinder filed on behalf of the workmen that the said statement is not concise and clear and Swami Nath Prasad was never appointed as an independent contractor having control and supervision over the works of the workmen concerned.

The management's assertion is that as the persons concerned have not disclosed the name of the contractor it is difficult to say that they were ever the workmen of a contractor. The management's further assertion is that even if some of them worked under a contractor, they were not engaged as plant cleaning mazdoors. The management's further contention is that it never awarded contract on the jobs of plant cleaning.

It is pertinent to point out that after making the statement to the aforesaid effect, in para 9 of the written statement the management acknowledged the existence of aforesaid Swami Nath Prasad being engaged for getting the management's work done. It is mentioned therein that on examination of records relating to the contract awarded to Swami Nath Prasad it transpired that he was awarded contract for rehandling of 1100 cubic metres of coal from D-I Reclaimed Tunnel at the price of Rs. 9,328 by work order dated 1/4-7-1989. He was also awarded contract for handling of 1100 cubic metres of coal slurry and debris at a cost of Rs. 9,328 by work order dated 4-7-89. In the month of November, 1989, the said contractor was awarded contract for cleaning of sumps of D-I Plant for cleaning 1100 of silted materials at the cost of Rs. 9,790 by work order dated 1-11-89. Thereafter, it is mentioned that another work order dated 1-6-90 could be found in favour of Swami Nath Prasad for handling of 1100 metric tonne of coal in D-I, D-II and underground plant at a cost of Rs. 9,339 only. He was also awarded another contract for rehandling of spillage coal from Dugda No. I Reclaimed area by work order dated 29-3-90. He was required to rehandle 1100 cmt. of spillage coal at a total cost of Rs. 10,065 only. Similarly he was awarded contract by letter dated 29-8-90 for recovery of spillage coal from in and around of transformer's room and front area of upgradation plant, the total quantity being about 900 cmt at a total cost of Rs. 7,641 only.

After the aforesaid statement it is mentioned therein that Swami Nath Prasad was awarded contract of miscellaneous nature available from time to time by work orders issued in his favour. It is not mentioned that either prior to 1989 or after 1990 the said contractor was not awarded any contract nor there is any denial that the workmen concerned were never engaged through the said

contractor. Simply the statement has been made in the same para later on that if any one of them (concerned workmen) have ever worked as contractor's workers under Swami Nath Prasad, they could have been engaged on such jobs awarded to Swami Nath Prasad.

The concerned workmen have filed several letters (Ext. W-1 series) of the said contractor, Swami Nath Prasad addressed to the Dy. Chief Engineer, Dugda Coal Washery requesting for issuance of gate pass to different workmen including the concerned workmen for carrying out the jobs mainly of plant cleaning inside the washery. Those letters are for the period between 1989—91 and the management's witnesses, MW-1 and MW-2 have not challenged the same either by mentioning the same as forged or manufactured.

Therefore, it is clear that both the sides have admitted the facts about the existence of said contractor and further it is clear that the concerned workmen were engaged during the aforesaid period through the said contractor by the management. It is yet another fact that as per the workmen the presence of the said contractor was just for the sake or just for disbursing the wages to the workmen.

The management though has not filed any pay order, bill or any paper whatsoever relating to the contract awarded to the said contractor but has admitted the fact regarding the contract awarded to the said contractor from time to time. From para 9 of the written statement of the management it is apparent that those contracts were mostly for carrying the jobs of rehandling of coal, for clearing of sumps of plant and for rehandling of spillage coal. The management has described those works covered under those contracts as miscellaneous nature of job. It has not been stated anywhere that those jobs or any of those jobs was not plant cleaning job or the jobs of rehandling of coal or spillage removal etc. are not considered to be the job of plant cleaning or the same are not included in the job of plant cleaning. The workmen's witness (WW-1) in his evidence has said that as plant cleaners they all used to clean the coal from conveyor belt which falls and they put the same again on the belt and the same are picked up with shovel which were being supplied by the company and buckets were also provided by the company to collect the coal. He has also said that plant cleaning is being done in all the three shifts.

It is well known and cannot be denied that the coal particles which fall from conveyor on the ground as a result of vibration while the washery is working are required to be put back again on the conveyor belt and this is a part of plant cleaning job and this is also called removal of spillage of coal to the conveyor. It can also be not denied that rehandling of coal includes collection of washed coal which spills down from the conveyor and this is done essentially for the purpose of putting the same back on to the conveyor. As the management was knowing well about this aspect, quite understandably it has not taken the stand anywhere

that the rehandling of coal or the removal of spillage are not included in the job of plant cleaning or the same are not the part of plant cleaning job.

It is thus clear that most of the works for which contract was awarded from time to time were plant cleaning job and since during the said period the concerned workmen were engaged through the said contractor as is evident from Ext. W-1 series which bear the signature of the management's officials also, they performed the jobs of said nature.

Further from the aforesaid it becomes apparent that it has been incorrectly stated in the written statement of the management that no contract was ever awarded to any contractor for plant cleaning job. It has not been denied that the plant cleaning job is considered a job of permanent and perennial nature and the same is also brought under the prohibited category by way of notification under C.L.R.A. Act. There is no denial to this effect either in the written statement of the management or in evidence. Rather, both the management's witnesses have admitted in course of their cross-examination that plant cleaning job is a regular nature of job.

So in view of the aforesaid it also becomes clear that the concerned workmen have been performing the permanent and prohibited nature of job during the period of their engagement. Both the management's witnesses though during their examination-in-chief have denied the fact about engagement or the working of the concerned workmen in the concerned washery but they have accepted in course of their cross-examination that they are engaged in raw coal handling section and plant operation section respectively and that there are other sections also where plant cleaning work is done. MW-1 has said that he cannot say the number of workmen engaged in plant cleaning job in the washery and further he has said that he cannot name those workmen engaged in plant cleaning work in sections other than the section where he works. Likewise MW-2 has also said in his evidence that he cannot say the name of all the regular workmen and contract workers working as plant cleaning mazdoors and also he cannot recognise them by fact. He thereafter has said that he cannot say that the concerned workmen are working in the washery since 1980 and they have been stopped from work from 1993. The workmen's witnesses (WW-1 to WW-3) on the other hand have consistently stated about their engagement and the working of the concerned workmen as plant cleaning mazdoors in the said washery and they have also said that actually the work was taken by the company and the contractor was just for the name sake.

As it has been observed earlier also the management has only made statement in its written statement regarding the contract given to the aforesaid contractor from time to time and has not filed any document relating to the grant of those contracts. Anyway, the fact mentioned in the written

statement finds support from the workmen's documents also (Ext. W-1 series) which are also related to the same period. The workmen's assertion is that the engagement of the contractor was just for name sake and only for disbursement of wages through him. As against such stand being taken the management has not put forward anything worth mentioning. Nothing is there to show that for all practical purposes the said contractor was the employer of the workmen and the engagement of the concerned workmen was totally contractual.

Regarding the supervision of the the works of the workmen concerned, the denial is there by the management but its own witness (MW-2) in course of his cross-examination has admitted that the work of plant cleaning is supervised by the Supervisor of the management and it has already been observed above that the concerned workmen performed the job of plant cleaning during their engagement in the concerned washery. The workmen's witnesses (WW-1 to WW-3) have consistently supported the said fact regarding the supervision of the works of the concerned workmen by the management. So, in view of the materials on record there is no alternative but to conclude that the works of the concerned workmen during the period of their engagement were supervised by the authorities of the management and not by any contractor.

The management has admitted the fact as regards the works being awarded to the contractor for getting the different nature of job done, but neither it has produced any certificate of registration of its establishment for employment of workers through the agency of contractor nor it has produced the licence of the said contractor engaged for the performance of any nature of job. In the written statement or in the pleading also there is no statement at all in regard to the said fact whether the management was registered or not or the contractor was was having the licence or not. It is reiterated that it stands undenied that the job of plant cleaning through the agency of the contractor has since been prohibited by the appropriate authority under the Contract Labour (Regulation & Abolition) Act as the said nature of job is considered to be a job of permanent and perennial nature.

Therefore, from all the aforesaid it is clear that though the workmen concerned were engaged through a contractor and were shown to be the contractor's workmen but the system of contract or the presence of contractor was mere a device to camouflage the real issue and in fact for all practical purposes there existed relationship of employer and employee between the concerned workmen and the management and most of the jobs performed by the concerned workmen during the period of their engagement under the management were the plant cleaning jobs which, as observed above, are considered to be of permanent and perennial nature.

9. The claim of the concerned workmen is that they worked since 1980 till 1993 when they were stopped from

their work by the management. Except the oral testimony of the witness no material has been brought on record to show that right from the year 1980 itself they had been performing their works. The documents filed by them speak about their engagement between the period from 1989 to 1991. The statement about the grant of contract to the said contractor as made in the written statement of the management is also for the period between 1989 to 1990. So even if it is not from 1980 continuously then at least between the period 1989 to 1991 the continuous working for more than 240 days in one calendar year can be gathered and there is nothing on the basis of which any otherwise view can be taken.

10. It has not been denied that in the year 1980 altogether 161 workmen were regularised who were working in the same washery as plant cleaning mazdoors and then in the year 1994 on the basis of an award passed by this Tribunal altogether 64 persons working in the same washery on the same nature of job have been regularised. According to the concerned workmen their case stands on similar footing and the only difference is that the dispute of those 64 workmen was sponsored by Janta Mazdoor Sangh and the present reference is referred at the instance of Bihar Colliery Kamgar Union. Having gone through the copy of the said award filed by the workmen (Ext. W-3) it appears that though there is no exact similarity as far as the fact and materials produced are concerned but it is clear that those 64 workmen had also worked in the said washery for a considerable long period having been engaged through a contractor and had performed the same job of permanent and prohibited nature and in that case also the management called them as the contractor's workers and denied the relationship.

So, it is clear that almost under the similar situation, one award has been passed in favour of other workmen who are now working as permanent workmen of the management.

11. Nothing has been put forward on behalf of the management to show that there is no vacancy existing in plant cleaning job and simply a statement has been made to that effect in the written statement. The management's witnesses have also not uttered anything about it. From the materials on record rather it is apparent that the management has been taking the works of the aforesaid nature both from its permanent workmen or by engaging the persons through outsider agency. Such practice being adopted by the management is also reflective of the fact that there is need of extra hands for performance of jobs of plant cleaning and instead of making appointment on permanent basis the management has been engaging workers through contractor even for doing the works of permanent and perennial nature which is not only undesirable rather illegal.

12. Thus, in view of all the aforesaid considerations and discussions finally it can well be concluded that the

concerned workmen have come forward with a genuine demand and they all deserve to be regularised in the services of the management.

13. The award is, thus, made hereunder :

The action of the management of Dugda Coal Washery of M/s. B.C.C.Ltd. in not regularising the concerned workmen is not legal and justified and all those 22 concerned workmen deserve to be regularised in the services of the management. Consequently, the management is hereby directed to reinstate and regularise the services of all the twenty two (22) concerned workmen (as per list attached with the order of reference) as plant cleaning mazdoors subject to being found medically fit and below the age of superannuation, within sixty days from the date of publication of the award and to pay them wages as per NCWA.

In the circumstances, however, there would be no order as to cost.

S. H. KAZMI, Presiding Officer

नई दिल्ली, 20 जनवरी, 2003

का. आ. 573.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, टिस्को के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 1, धनबाद के पंचाट (संदर्भ संख्या 263/1990) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-2003 को प्राप्त हुआ था।

[सं एल-20012/315/90-आईआर(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 573.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 263/1990) of the Central Government Industrial Tribunal I, Dhanbad now as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of Tisco and their workman, which was received by the Central Government on 17-1-2003.

[No. L-20012/315/90-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. I, DHANBAD

In the matter of a reference under Sec. 10 (1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 263 of 1990

PARTIES : Employers in relation to the Management of Jamadoba Colliery of M/s. TISCO Ltd.

AND

Their Workmen

PRESENT:

SHRI S. H. KAZMI,
Presiding Officer

APPEARANCES:

For the Employers : Shri D. K. Verma, Advocate

For the workmen : Shri S. Sinha, Advocate

State : Jharkhand Industry : Coal

Dated, the 6th January, 2003

AWARD

By Order No. L-20012/315/90-I.R. (Coal-1) dated, the 15th November, 1990 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-sec. (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Jamadoba Colliery of M/s. TISCO Ltd., P.O. Jamadoba, Dist. Dhanbad in dismissing Sri Rajesh Turi is justified? If not, to what relief the concerned workman is entitled?”

2. Precisely, the case of the management is that the concerned workman, Rajesh Turi, was appointed as minor/loader on 11-9-75 at 6 & 7 Pits Colliery of the management. He was transferred to Jamadoba Colliery on 1-7-87 in the same capacity and he was placed on time-rated job of Belt Cleaning Mazdoor w.e.f. 29-8-89. It has been said that some of the workmen of the colliery had their residence at local village situated on the other side of the bank of river “Damodar”. They come to attend their duties at the colliery after crossing over the river “Damodar”. At the relevant time there were seventeen workmen including the concerned workman who regularly used to attend their duties after crossing the said river. They used to be deployed in three different shifts according to requirement. Further it has been said that the House Allotment Committee comprising of representatives of the management and the workmen, took decision in the meeting held on 23-9-83 to allot quarter No. CG-2 at New Punjabi Colony to the concerned workman and 16 others for their stay so that they are not required to cross the river during evening and night hours. The said quarter was treated as “Rest Room” for all workmen attending their duties after crossing the river. The quarter was allotted by letter dated 8/11-2-85. Further case of the management is that it was discovered on 5-6-87 that the concerned workman converted the common rest room as his private house and kept his wife in the aforesaid quarter depriving all others the advantage of their stay during evening and night hours. It is said that on receipt of the complaint from the Welfare Officer and Manager, the Agent, Jamadoba Group of Collieries issued direction by his letter

dated 3/13-7-87 to the concerned workman to give vacant possession of the said quarter and not to convert the common Rest Room into a private quarter by keeping his own family members. It is also said that the concerned workman disobeyed the said order and continued unauthorised possession of the said quarter. Thereafter, it is said, a chargesheet dated 3-9-87 under clause 19(I) of the certified standing orders for commission of the misconduct of insubordination and disobedience of lawful orders of the management was issued against the concerned workman upon which he replied, but the said reply was found unsatisfactory and so enquiry was held and then he was suspended for ten days w.e.f. 14-3-88 as a measure of punishment. Even after imposition of such punishment, it is said, the concerned workman stayed at the said quarter with his family members and so a chargesheet dated 1-8-88 was issued against him under clause 19(1) of the certified standing orders. The concerned workman submitted his reply and thereafter enquiry was held which was ultimately fixed *ex parte* against the workman as he did not participate despite the notice being sent. Upon completion of the enquiry, the Enquiry Officer submitted his report holding the concerned workman guilty of the said misconduct and finally on the basis of the said report he was dismissed from his service by letter dated 19-12-89. It is said that such action on the part of the management was perfectly justified and the workman concerned does not deserve any relief whatsoever.

3. The workman concerned in his written statement, on the other hand, though has not challenged the facts regarding the allotment of quarter for the aforesaid purpose, issuance of chargesheet against him, holding of domestic enquiry and then passing of the order of dismissal against him, but has come out with the case as disclosed in his written statement that the chargesheet issued against him was false and baseless and the enquiry which was conducted *ex parte* against him was also wrong and illegal as he was not given sufficient opportunity to defend himself. It has further been said that the report submitted against him for unauthorised occupation was wrong and biased as he never kept his family members in the quarter. It has also been said that allotment of said quarter was never cancelled but even then several actions were taken against him by the management on one flimsy ground or the other. Further, it has been said that the enquiry report submitted by the Enquiry Officer is not only violative of principles of natural justice, rather the same is illegal and perverse also as many relevant factors have been overlooked and were not taken into consideration. According to the workman, he is entitled for reinstatement with all consequential benefits and back wages.

4. It is significant to point out at the very outset that during the pendency of this case the fairness of the domestic enquiry was taken up as preliminary issue, both sides led their evidence and then by order dated 15-9-94

the domestic enquiry was held to be unfair and improper and the management was thereafter given the opportunity to adduce evidence on merit. In view of such developments the only consideration which is now required to be made in the instant case or its final disposal is as to whether on the basis of the materials brought or made available before this Tribunal in course of the proceeding, the action of the management in dismissing the concerned workman from his service can be taken to be improper and unjustified or not.

5. Two witnesses were examined on behalf of the management on merit and one witness was examined on behalf of the workman. From the side of the management several documents mostly related to the enquiry proceeding have been marked exhibits and those are Exts. M-1 to M-11/1. Out of those Ext. M-1 is chargesheet dated 28-3-88, Ext. M-4 is enquiry proceedings, Ext. M-5 is enquiry report and Ext. M-6 is letter of dismissal dated 19-12-89.

6. It is not in dispute that the said quarter was allotted to the concerned workman and 16 others by the House Allotment Committee, keeping in view their convenience as they used to come to attend their duties from other side of the river "Damodar".

The management's case is that though the said quarter was to be used as "Rest Room" by all those 17 workmen, but the concerned workman started residing there alongwith his family members and so when the matter was reported to the management, the management issued a direction to the concerned workman to give vacant possession of the quarter and not to convert the common rest room into private quarter by keeping his own family members. But the workman did not obey the order and so ultimately a chargesheet was issued against him and upon an enquiry he was put under suspension by way of punishment for ten days. According to the management, even then the workman continued unauthorised occupation of the said quarter and so again a chargesheet was issued, enquiry was held in which the workman did not choose to participate and then on the basis of materials collected he was found to be guilty of the said charge by the Enquiry Officer who submitted his report and on that basis he was dismissed. Further, according to the management, considering the gravity of the charges, the workman was rightly dismissed and the management's action was perfectly justified.

The workman's stand, on the other hand, is that he never misused the said quarter and never remained in occupation of the same in an unauthorised way, never kept his family members there in violation of the terms of the allotment and so entire action of the management against him was unwarranted, illegal and vindictive. His further stand is that the enquiry was bad and illegal and without any sufficient or cogent material, the report was submitted against him by the Enquiry Officer and later he was dismissed on that basis.

7. Reliance from the side of the management is mainly on the evidence of MW-1 and MW-2 and the documents which are marked Exts. M-10 to M-10/2 and these are Inspection Reports submitted by MW-1. They were filed during the enquiry proceeding also and while coming to the final conclusion, quite apparently the same weighed a lot with the Enquiry Officer. It has been urged that MW-1 was entrusted with the job of making local inspection to find out whether the concerned workman was living in the said quarter along with his family members or not and accordingly on three occasions he visited the said quarter and found the same occupied by the workman concerned and his family members and thereafter he submitted his three reports on different dates. It is contended that MW-1 and MW-2 both in their evidence have sufficiently supported those documents and the contents thereof and so with the help of those materials the management has succeeded in establishing the charge beyond any reasonable doubt that the workman concerned disobeyed the order of his superior and remained under unauthorised occupation of the said quarter.

The workman has challenged the aforesaid three documents and it has been submitted on his behalf that no inspection was ever held and MW-1 just in a vindictive manner prepared those reports without holding any inspection and without ascertaining actual state of affairs and further without making any enquiry from those workman in whose favour also the allotment of the said quarter had been done.

8. Ext. M-10 is Inspection Report dated 18-7-88 submitted by Sri M.L. Sinha (MW-1) who was posted during the relevant period as Senior Personnel Officer. In this report he has mentioned that he along with Dhowra Clerk visited the new Punjabi Colony and found that Rajesh Turi, miner of Jamadoba colliery was unauthorisedly living with his family in Qr. No. CG-2, double roomed quarter. His next Inspection Report is dated 30-11-88 (Ext. M-10/1) and his another Inspection Report is dated 12-8-89 (Ext. M-10/2). The contents of both the reports (Ext. M-10/1 and M-10/2) are same as that of First Inspection Report (Ext. M-10). There is no signature of any family members of the workman in any of those reports who was found to be living in the said quarter during the inspection nor there is any signature of any of the neighbours who was found to be living in the vicinity or adjacent to the said quarter. There is no mention in any of those reports whether MW-1 during inspection tried to get the identity of the person found to be living in the said quarter established or not by any means and whether he tried to contact the neighbour or any of the 16 other allottees of the said quarter for ascertaining the fact about unauthorised occupation. Regarding inspections done and reports submitted by him the management's witness (MW-1) in course of his cross-examination had said that he had conducted spot inspection three times during day hours, though according to him, in

his reports he has not mentioned exact time of inspection. He has further said that S.K. Ghosh, Welfare Clerk who was working under him had accompanied him on those three inspections and further according to him on all the three occasions he had found family of the concerned workmen in the said quarter so much so that the lady in occupation of the quarter had introduced herself as the wife of Rajesh Turi, the concerned workman. He has said that at that time he did not meet the concerned workman there. Upon question being asked he has said that he had not obtained the signature of that lady on his inspection reports. Further, according to him, he had not received any complaint from the other 16 allottees against the concerned workman for accompanied the quarter with his family and thereafter has said that none of those 16 persons had occupied during inspections. Subsequently he has said that if the wife of the concerned workman is shown to him on the date when he gave evidence he will not be able to recognise her because of passage of time. It is thus evident from the aforesaid statements of MW-1 that he made the inspection in a most casual manner in the sense that neither he considered it necessary to take the signature or thumb impression of the said lady on those reports prepared by him, who according to him introduced herself as wife of the concerned workman nor he tried to contact or enquire from those 16 allottees of the said quarter or from any one of them. Simply as per his statement one clerk who was working under him accompanied him during those inspections. The said clerk, incidentally, has also been examined as MW-2. Like MW-1 he has also said that during inspections they found the wife of the concerned workman living in that quarter. During his examination-in-chief he has said that complaint was made by another worker, Kanun Mahato for inconvenience being caused to them due to occupation of the quarter by the concerned workman and his wife. In this regard when he was cross-examined on behalf of the workman he stated that the co-worker, Kanun Mahato had made complaint in the office but that complaint was not available with him. Immediately thereafter he said that the complaint was verbal complaint made by him before M.L. Sinha, Officer. This statement made by this witness does not find corroboration from the statement of said M. L. Sinha, MW-1, who, as mentioned above, has clearly and very categorically stated that he had not received any complaint from other 16 allottees against the concerned workman for occupying the quarter with his family. He has not stated as such about any verbal or written complaint by any of those 16 workmen or by the said Kanun Mahato. MW-2 has also said that on all the three dates he and M.L. Sinha visited the said quarters and enquired from the persons there. Again this statement does not find corroboration from MW-1 as he has not said about any enquiry being made from the persons or any person during the inspection. This witness who admittedly was working under MW-1 as a clerk in his enthusiasm to support the reports submitted by his superior has even gone to the

extent of making few statements which either controvert or do not corroborate the statement of his superior (MW-1). Anyway, from the evidence of this witness also it is apparent that no effort was made to get the fact established either by examining any of the neighbours or by examining any of those 16 other allottees as regards the actual identity of the lady if at all she was found to be present in the said quarter. Like MW-1, MW-2 has also not clarified as to why the signature or thumb impression of the lady was not taken on that report or why the neighbour or other 16 workmen were not contacted or approached.

Therefore, in view of all the aforesaid, it is difficult to attach much importance to the testimonies of the aforesaid witnesses of the management or upon the aforesaid reports submitted by one of those witnesses (MW-1) and on the basis of those materials it is not safe to conclude that the management succeeded in establishing the fact as regards unauthorised occupation of the said quarter by the workman concerned or the fact that he was living in the said quarter with his family members.

9. It is needless to point out that the charge levelled against the concerned workman was under clause 19(1) of the certified standing orders of the company allegedly for commission of misconduct of insubordination and disobedience of lawful orders of the management and the allegation as set out was that in spite of the direction to vacate the quarter and to abstain from keeping the same under his unauthorised occupation, the concerned workman did not vacate the same in utter defiance of management's direction. Admittedly, the said quarter was allotted not only to the concerned workman rather in favour of other 16 workmen also and the said allotment was done by the House Allotment Committee consisting of representatives of the management and the union. Letter of allotment is marked Ext. M-11. It is not the case of the management that the said allotment was ever cancelled even after the initiation of disciplinary action against the concerned workman. The management's witness MW-1 has admitted in course of his evidence and has clearly stated that the order of allotment of quarter to the concerned workman and 16 others had not been cancelled. It is strange that without cancellation of allotment, the concerned workman was directed to vacate the said quarter. If there was any misconduct on the part of the workman as per the management, then it could have proceeded against him departmentally firstly by cancelling the allotment of the quarter as against his name. It appears from the reply submitted by the workman to the chargesheet served upon him that he stated that as the allotment has not been cancelled it would not be appropriate for him to vacate the same and further he stated that he is prepared to hand over vacant possession of the quarter after cancellation of the original allotment made by House Allotment Committee. In course of the submission also it has been urged on behalf of the workman that in the event of vacation of the quarter

without cancellation of allotment, for anything untoward which may have happened or occurred in the said quarter or in any part of the same it was the concerned workman who could have been held responsible or liable for that as the allotment was still in his name as well and the management had already been reported in a biased manner that he was keeping the same under his unauthorised occupation and so for that reason the workman took the stand that he is prepared to vacate the same but firstly allotment should be cancelled. Such stand of the workman cannot be said to be unreasonable. If he persisted with the occupation of the said quarter even upon the receipt of the letter containing the direction to the aforesaid effect then the concerned workman was having valid ground also to assert. Interestingly the management even thereafter did not take any step for the cancellation of the allotment. Moreover the allotment of quarter was made by the duly constituted House Allotment Committee and so it was proper for that Committee itself to take any initiative against the workman, if at all the management was having any valid grievance against him, but no any action was taken by the said Committee at any point of time. The management has no answer to the aforesaid curious and strange material aspect. The said earlier allotment was in favour of other 16 workmen also; but none of them appeared before the management to make any complaint against the concerned workman. During the domestic enquiry it appears from the documents relating to that (Ext. M-4) that one of those 16 workmen, namely, Kanun Mahato was examined on behalf of the management, but during the present proceeding he has not been examined by the management, rather it was the workman who produced him on his behalf when the evidence on preliminary point was going on. He stated during his evidence that he did not make any statement against the concerned workman in the domestic enquiry. In course of his cross-examination also he said that he did not appear in the domestic enquiry and he had put his thumb impression only once. When he was confronted with his thumb impression which is there on the enquiry papers he stated that he cannot say if that was his thumb impression. He denied the suggestion that he was deposing falsely at the instance of the union. Nowhere in his evidence he has said that either he or any one else in whose favour also the allotment was there ever made any complaint or raised grievance before the management against the concerned workman regarding his alleged unauthorised occupation of the quarter. He has also nowhere stated about any inspection of the quarter made by MW-1 either in his presence or in presence of others. In this context it is reiterated that MW-1 himself has admitted that none of those 16 workmen made any complaint and none was examined by him during his inspection. Had the said quarter been under unauthorised occupation of the concerned workman then it was none other than those 16 allottees who would have been aggrieved and would have protested and complained against the concerned workman, but none

of them came forward with any objection or complaint before the management. It is indeed a strong circumstance which certainly goes in favour of the concerned workman.

10. True it is that the charge levelled against the concerned workman was the disobedience of the order of the management but this charge quite apparently was based on the allegation that the workman was keeping the quarter in an unauthorised manner in the sense that he was living there with his wife or family members against the terms of allotment. He was asked to vacate the quarter on that basis. Therefore, the foundation of the charge was unauthorised occupation of the quarter. As in the instant case, in view of all that has been observed above, the management has failed to establish the allegation of the unauthorised occupation of the said quarter by the workman, it is difficult to hold him liable for any misconduct, as alleged or to come to a conclusion that the management proved the said conduct satisfactorily. Consequently, in my considered view, the action of the management cannot be held to be justified and the concerned workman deserves reinstatement, but in the facts and circumstances of the present case as also in view of the fact that nothing has been put forward to show that after dismissal from his service the concerned workman remained idle and was not engaged in gainful service elsewhere, he would deserve to be paid only 40% of his back wages.

11. The award is, thus, made hereunder :

The action of the management of Jamadoba Colliery of M/s. TISCO Ltd. in dismissing the concerned workman, Rajesh Turi, is not justified and he deserves to be reinstated in the services of the management. Consequently, the management is hereby directed to reinstate the concerned workman and to pay him 40% of his back wages from the date of dismissal till the date of his reinstatement within 60 days from the date of publication of this award.

However, there would be no order as to cost.

S.H. KAZMI, Presiding Officer

नई दिल्ली, 20 जनवरी, 2003

का. आ. 574.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बी.सी.सी.एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 1, धनबाद के पंचाट (संदर्भ संख्या 61/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-03 को प्राप्त हुआ था।

[सं. एल-20012/489/2000-आई.आर.(सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 20th January, 2003

S.O. 574.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 61/01)

of the Central Government Industrial Tribunal I, Dhanbad now as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of B.C.C.L. and their workman, which was received by the Central Government on 17-1-03.

[No. L-20012/489/2000-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. I, DHANBAD

In the matter of a reference under Sec. 10 (1)(d)(2A) of the Industrial Disputes Act, 1947.

Reference No. 61 of 2001

PARTIES : Employers in relation to the Management of
M/s. B.C.C. Ltd.

AND

Their Workmen

PRESENT :

SHRI S. H. KAZMI,
Presiding Officer

APPEARANCES :

For the Employers : Shri U.N. Lal, Advocate

For the workmen : Shri K.N. Singh, Advocate

State : Jharkhand Industry : Coal

Dated, the 3rd January, 2003

AWARD

By Order No. L-20012/489/2000(C-1) dated 19-2-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. BCCL in superannuating the workman Sri Sheo Nath Dussadh, U/G Trammer of Moonidih Colliery w.e.f. 22-8-98 is justified, legal & Proper ? If not, to what relief is the workman entitled ?"

2. To-day (3-1-2003) was the date fixed for filing of rejoinder and documents by the workman, but Sri K.N. Singh appearing on behalf of the workman by filing one petition submits that the concerned workman of this case does not want to pursue this matter any further and is in favour of withdrawing his claim. He submits that in this view of the matter some necessary and appropriate order be passed as regards final disposal of this reference. Sri U.N. Lal, Advocate, appearing on behalf of the management submits that he has got no objection to the aforesaid effect.

3. Considering the aforesaid submission being made from the side of the workman it is needless to keep this case pending any further as there is no dispute in existence

to be adjudicated and the person concerned himself does not want to pursue this case.

This reference, as such, is disposed of.

S. H. KAZMI, Presiding Officer

नई दिल्ली, 21 जनवरी, 2003

का. आ. 575.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन एयर लाइंस के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या एल.सी.आई.डी. 4/2002, ओल्ड आई.डी. सं. 3/2001) को पुनः प्रकाशित करती है, जो केन्द्रीय सरकार को 16-01-2003 को प्राप्त हुआ था।

उक्त पंचाट समसंख्यक अधिसूचना दिनांक 5-11-2002 (16-11-2002 के अपश्चात् प्रकाशनार्थ) द्वारा पहले प्रकाशित किया गया था।

[सं. एल-22012/01/2002-आई.आर. (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 21st January, 2003

S.O. 575.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. LCID 4/2002, Old I.D. No. 3/2001) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of Indian Airlines Ltd. and their workman, which was received by the Central Government on 16-01-2003.

The Award was earlier published vide Notification of even number dt. 5-11-2002 (to be published in the Gazette not later than 16-11-2002).

[No. L-22012/01/2002-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri E. Ismail, Presiding Officer

Dated, the 24th day of September, 2002

INDUSTRIAL DISPUTE L.C.I.D. No. 4/2002

(Old I.D. No. 3/2001 Transferred from Addl. Industrial Tribunal cum Addl. Labour Court, Hyderabad)

BETWEEN:

Smt. Tamara L. Martin,

W/o Leon Martin,

R/o 112, Ramanaiah Apts.,

Jyothi Colony, Phase-II,

Secunderabad

.....Petitioner

AND

1. The Managing Director,
The Indian Airlines Limited,
Airline House—113,
Gurudwara Rakabganj Road,
New Delhi.

2. Sri J. K. Khanna,
Personnel Manager,
Indian Airlines,
Airline House—113,
Gurudwara Rakabganj Road,
New Delhi.

3. The Personnel Manager,
Indian Airlines,
Begumpet,
Hyderabad.

.....Respondents

APPEARANCES:

For the Petitioner : M/s. G. Ravi Mohan, R. Devender Reddy, G. Naresh Kumar & G. Srinivas Reddy, Advocates

For the Respondent : M/s. K. Srinivasa Murthy and K. Bharathi Devi, Advocates

AWARD

This case I.D. No. 3/2001 is transferred from Addl. Industrial Tribunal cum Addl. Labour Court, Hyderabad in view of the Government of India, Ministry of Labour's order No. H-11026/1/2001-IR (C-II) dated 18-10-2001 and renumbered in this Court as L.C.I.D. No. 4/2002. This is a case taken under Sec. 2A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others.

2. Brief facts mentioned in the petition are: That the petitioner was appointed as Traffic Assistant on 19-4-1986 at Vayudoot Limited. As Traffic Assistant the petitioner has to sell the air tickets to the passengers. Her services were confirmed. In the said post in Vayudoot Limited since her appointment she has been discharging her duties to the utmost satisfaction of her superiors. While so the petitioner was promoted to the post of Sr. Traffic Assistant in the year 1989. Though she was promoted her duties were similar to that of a Traffic Assistant. While so she was transferred to the Vayudoot office at Bangalore with effect from first week of May, 1992.

3. During 1992, the petitioner got married and at the request of the petitioner she was transferred to Bangalore office which was located in a rented premises. Since the rent has not been paid regularly there appears to be rent due to the owner as such the Bangalore office was decided to be shifted to some other accommodation. In the course of shifting, the petitioner was asked to take care of certain articles from Bangalore office to Madras. However, certain

articles from the Bangalore office could not be transported immediately for various reasons. Taking advantage of the situation the Assistant Commercial Manager, who is ill disposed towards the petitioner has issued a letter dated 14-7-1992 alleging that on 25-6-1992 the petitioner has transported certain fixtures from Bangalore Office to unknown place and implicated the petitioner in a theft case. The petitioner gave an explanation on 15-7-1992. However, she was placed under suspension by an order dated 16-9-92 and was issued with a charge sheet dated 22-9-92 alleging that on 23-6-92 the petitioner removed certain furniture and fixtures unauthorisedly. Thereafter, the petitioner submitted a detailed explanation. After an enquiry her pay was reduced by three stages permanently with immediate effect on 16-8-95 and the suspension order was revoked. The said letter has been communicated by the Respondent on 22-8-95 which was received by the petitioner on 7-9-95. And they directed the petitioner to report for duties to the Regional Manager (SR, Hyderabad).

4. It is submitted that as per the orders dated 16-8-95 and 22-8-95 the petitioner submitted her joining report personally to the Regional Manager (SR). She gave a letter stating that she was staying with her parents at Hyderabad. Her first daughter is below two years of age and she was in last stages of pregnancy as such it was not possible for her to transfer to Bangalore and also Vayudoot office in Bangalore was closed down and requested to consider her case on compassionate grounds and allowing her to report to the Regional Manager (SR) and to post her at Hyderabad and also submitted medical certificate along with her letter dated 11-9-95. Again she sent another medical certificate dated 12-9-95 with regard to the petitioner's health condition at the advanced stage of pregnancy.

5. Subsistence allowance was paid from September, 1992 to March, 1993 thereafter she has not been paid though the amount was being received at the Hyderabad office from Delhi.

6. While so, the Respondent took over the Vayudoot Ltd., in a phased manner that a letter dated 21-7-97 enclosing copy of the letter dated 23/26-2-96 was issued stating that the petitioner is unauthorisedly absent from her service and the petitioner has voluntarily abandoned from Vayudoot Ltd., as per letter dated 20-5-1996.

7. It is submitted that the Respondent at no point of time had communicated any letter much less letter No. PE : HQ : PERS : 96/902, dated 23/26-2-1996. Thus, there is no opportunity for the petitioner to submit explanation as per letter dated 23/26-2-1996. It is submitted that, the entire action of respondent is wholly illegal, arbitrary and without any justification. It is clear from the orders communicated by the 2nd Respondent dated 22-8-1995 that the petitioner's suspension was raised and directed to report for duty. Since due to the unavoidable circumstances and persistent requested the Respondent to consider her case for issuing

posting orders to Hyderabad. Instead of considering the petitioner case and issuing posting orders the Respondents appears to have passed arbitrary orders dated 23/26-2-1996 stating that the petitioner was unauthorisedly absent from service and the petitioner voluntarily abandoned from Vayudoot Limited. There was no opportunity for the petitioner to submit explanation to the said letter that the entire action of the Respondent is wholly illegal, arbitrary and without any good justification. It is clear from the orders communicated from the second Respondent dated 22-8-95 that the petitioner requested that the Respondent to issue posting orders to her at Hyderabad. Instead of considering the same they dismissed her as having unauthorisedly abandoned the service. No opportunity has been given to the petitioner to explain her absenteeism. Hence, order is liable to be set aside. As the action amounts to illegal termination without giving reasonable opportunity. Further, as the petitioner was in advanced stage of pregnancy and no office was functioning at Bangalore, her removal amounts to victimization. Hence she may be reinstated with back wages with continuity of service etc.

8. A join counter was filed on behalf of all the three Respondents. That the L.C.I.D. is filed questioning the order of management dated 26-2-1996 which is nothing but a statement of fact that the petitioner has abandoned the service. As she has by her conduct intimated the employer that she is not interested in job without putting anything in writing. The earlier case got no bar in this case. Earlier she wanted a transfer to Bangalore which was agreed by the management. Again she wanted a transfer at Hyderabad. It is not open to the employee to choose place of work or that the employer should post or transfer individuals to the place of her choice. Probably on the ground that she cannot remain at Bangalore, she did not join. It looks on reading of the claim statement as if the petitioner was seeking posting at Hyderabad though the fact remains that after order of revocation of suspension she had not reported at the place of her posting that is Bangalore. Despite specific instructions issued by the management in short she has abandoned the service on her own for reasons best known to her.

9. In the year 1994, the Respondent decided to create a separate department in Indian Airlines Ltd., called Short Haul Operations Department (SHOD) for absorption of the employees of Vayudoot Ltd., in accordance with the guidelines issued by the absorption committee constituted by the Ministry of Civil Aviation, Govt. of India a circular to this effect was issued on 24-5-94 stipulating the main criteria for absorption. Thereafter the process of absorption was carried out in a phased manner. As per the guidelines of the absorption committee the employees having satisfactory record of service in the last three years were only to be considered for absorption into SHOD. Whereas the petitioner did not qualify the requirements of the satisfactory service of the past three years. She was under

suspension from 16-9-92 to 10-9-95 and in the mean while the absorption process was completed on 1-4-95. During the period of suspension the petitioner was directed not to leave the station of her posting that is Bangalore. However, the petitioner left the place of her posting on her own without taking permission from the management. That after having been directed to report to Regional Manager, Vayudoot Ltd., she simply left a letter at the office of the Regional Manager, South Region without waiting to get further instructions and without informing Regional Manager, South Region regarding change in her residential address. Thereafter the South Region directed her to report at Bangalore as per the letter No. PF : AP : PERS : 216/2160 dated 11-9-1995 which was sent to her by registered post to her at the available official address in her personal file that is at Bangalore.

10. She had willfully chosen to remain silent and did not comply with the instructions. Again a letter dated 23/26-2-1996 was sent by registered post to the petitioner permitting her ample time of 15 days to explain in writing valid reasons for her unauthorized absence since 11-9-95. According to the available records petitioner was residing at Bangalore from 22-8-95 to 11-9-95. However, letter dated 23/26-2-1996 was sent to her by registered post at her Bangalore address which was duly acknowledged by her. Again the said letter gives ample time of 15 days to submit her explanation as she had no explanation to offer, she willfully maintained silence and as an after thought started correspondence with Respondents for her transfer to Hyderabad. As it is a case of voluntary abandonment of service no industrial dispute can be raised and the petition may be dismissed.

11. The petitioner examined herself as WW-1 and deposed that after the enquiry she was reinstated on 16-8-95, Ex. W1 is the revoking order. She was directed to report at Hyderabad. Accordingly she reported at Hyderabad on 8-9-95. As the Manager was not present she visited the office on 11-9-95 but she was not allowed to join the duty. Ex. W2 is the joining report. Ex. W2 was returned to her asking her to report at Bangalore vide Ex. W3. By that time the Bangalore office was already closed. Therefore she sent a letter to their head office at New Delhi stating that as the office is closed at Bangalore and as she was quick with a child she could not transfer. Ex. W4 is the transfer letter to the Chief Personal Manager, Air Lines House, New Delhi dated 25-3-96 for which she did not receive any reply. Again she made a request for transfer to Hyderabad under Ex. W5 for which that reply was given. Again she contacted over telephone the Managing Director, New Delhi in turn she got a reply with a direction to contact the General Manager, Indian Airlines, Short Hall Division, Mr. S.M. Jaffery. Again she made a request to the General Manager, New Delhi with request to transfer her to Hyderabad. They gave a reply that transfer request is a separate one to her and under Ex. W6 termination letter

was issued. Before her termination, one month's notice or pay in lieu of was not given or no domestic enquiry was conducted and she was not paid any compensation. Therefore the petitioner may be directed to reinstate with back wages and continuity of service etc.

12. In the cross-examination she deposed that she was transferred at her own request in the month of May, 1992 and worked till September, 1992 and an allegation of theft was made and the suspension that she received letter dated 22-8-95 that if she joins the service the suspension will be revoked. Again on 11-9-95 she received a letter which was addressed to her Bangalore address and informed her that she is posted to Bangalore. That she did not report at the Bangalore office so functioning at that time. That she has given an application to transfer her to Hyderabad office as per Ex. W6 she denied that as she wanted to work only at Hyderabad she has not reported at Bangalore. She received a letter 23-2-96 stating that she has been absenting unauthorisedly since 11-9-95. It is specifically stated that if she fails to join within 15 days it will be deemed that she is voluntarily abandoned the service. That she did not receive any letter dated 20-5-96 till today. It is true that the said period of suspension the management has directed her not to leave Bangalore. But inspite of specific direction she left Bangalore informing the Madras office that she is leaving for Hyderabad. There is no proof to show that she has reported at Madras office if necessary she will file.

13. Management examined Sri J.K. Khanna, Sr. Manager, Information Technology, New Delhi as MW1. He deposed that since 14 years he is working as Senior Manager. That he was officiating as D.G.M. Personnel between 11-2-97 to 18-8-99. He personally does not know the petitioner. But as per the records the petitioner joined in the service of Vayudoot as Traffic Assistant on 4th April, 1996. From her records he found her performance was far from satisfactory. There are several allegations on her like forging of signatures, negligence of work upto 1990 and in the year 1992 she was allegedly committed a theft of company property that is furniture, fixtures belonging to M/s. Vayudoot Ltd. at Bangalore while she was working as Senior Traffic Assistant in the year 1992. She was placed under suspension on 16-9-92 and it was stipulated that she should not leave the Headquarters without permission. She was issued a chargesheet on 22-9-92. She was given a notice of removal from service. But, as she submitted her reply on 7-2-95 and returned the furniture and fixture. Punishment was reduced to reduction of basic pay by three stages permanently by order dated 16-8-95. Simultaneously the order of suspension was also revoked. She was communicated of the final order dated 16-9-95 including revocation of suspension on 22-8-95 vide Ex. M1. She received the order and gave her reply dated 8-9-95 addressed to the Chief Manager, Vayudoot Ltd., New Delhi acknowledging the letter dated 22-8-95. It was communicated

in the letter that she should report to the duty to the Regional Manager, Southern Region of Vayudoot Ltd., who was having office at Hyderabad. The place of posting remains at Bangalore only. The Regional Manager (SR), Vayudoot Ltd., sent a letter dated 11-9-95 to WW1 at her Bangalore address clearly stating that she has to report at the Bangalore office since she was posted at Bangalore vide Ex. M2. It is not true to say that there is no office of Respondent at Bangalore on 11-9-95. In fact sending the letter dated 11-9-95 to the petitioner at Bangalore address asking her to report at Bangalore office shows that the Respondent was having an office at Bangalore. The petitioner did not comply the instructions to report for duty vide Ex. M2. There is a letter on record of her personal file dated 11-9-95 addressed to Chief Manager Personnel which was received in his office on 21-9-95 requesting for transfer to Hyderabad on personal grounds. The management did not take any action as she has first to report at Bangalore. A final letter was issued to her vide Ex. M3 to report for duty at Bangalore within 15 days otherwise it will be presumed that she has voluntarily abandoned the service. Again she wrote on 25-3-96 requesting for a transfer to Hyderabad but she did not join and remained absent without permission. Her case was considered by the management in accordance with the service regulations Chapter XII Sec. 5 of M/s Vayudoot Ltd., vide Ex. M5. The management of Vayudoot Ltd., addressed a letter dated 20-5-96, Ex. M6 that she has been treated as voluntarily abandoned the services w.e.f. 11-9-95 which was sent to her by registered post acknowledgement due. Yet the petitioner did not comply with the above letter. She again sent a letter dated 30-4-97. Letters dated 30-4-97 and 9-7-97 about her transfer from Bangalore to Hyderabad. The management again sent a letter dated 21-7-97 including the previous letter that it is presumed that she has voluntarily abandoned the service. The petitioner is not entitled for any relief.

14. In the cross-examination he deposed that Vayudoot operations were taken over by the Indian Air Lines irrespective of the fact whether the employees were absorbed or not. It is true that the petitioner was an employee of Vayudoot organization. They have not filed the previous enquiry proceedings. It is true that they have not conducted any enquiry before passing the final order. He will not be able to say about exact physical existence of the office during September, 1995. It is correct that the petitioner has sent a letter dated 11-9-95 addressed to the Chief Manager which was received by their office on 21-9-95 requesting for transfer to Hyderabad. It is true the petitioner gave reply dated 8-9-95 to the Chief Manager, Vayudoot Ltd., acknowledging the letter dated 20-8-95. It is not true to suggest that there is no office at Bangalore, she wrote to New Delhi. It is not true to suggest that they have violated the principles of natural justice, hence the termination is illegal and the petitioner is entitled for relief.

15. Sri S.N.A. Jaffery, Chief of Corporate Affairs in Airlines, deposed that he retired from Indian Airlines as General Manager, Corporate Affairs on 31-8-2001. Again he has been appointed as a Chief of Corporate Affairs in Allines Air on contract for two years. Allines Air is fully owned subsidiary of Indian Airlines. Again he repeated the facts stated by MW1 in chief examination. And further deposed that there was office functioning at Bangalore on the said date wherein her colleagues from Vayudoot are working. These employees were merged in Indian Airlines in terms of the order dated 25-5-93 vide Ex. M7 in SHOD. The office of the SHOD in Bangalore was in the premises of Airport Authority of India. In the cross-examination he deposed that while punishing her with reduction of three increments in the basic pay her suspension was revoked. The reduction of basic pay by three increments was independent of abandonment of service by the petitioner. They are not interlinked with each other. During the voluntary abandonment of service he was at New Delhi. It is true that they have not mentioned any specific address to report at Bangalore. The witness adds that the petitioner already knew the address having worked there previously. It is correct that as per the Government order Vayudoot merged with Indian Airlines on 25-5-93. The absorption of Vayudoot employees in the SHOD started on 1-12-94. It is not true to suggest that after the merger there was no separate office of Vayudoot at Bangalore. The employees of Vayudoot were absorbed at the place where they were working. The SHOD started w.e.f. 24-5-94. It is true that the petitioner addressed a letter dated 11-9-95 addressed to the Chief Manager requesting for transfer to Hyderabad. They have not issued any chargesheet or conducted enquiry before issuing proceeding dated 20th May, 1996.

16. It is argued by the Learned Counsel for the petitioner that the petitioner was appointed on 19-4-1986 as Traffic Assistant and promoted as Senior Traffic Assistant in the year 1989. That she was terminated from service alleging theft and fraud and reinstated in appeal vide order dated 16-9-95 vide Ex. W1. That she reported for duty at Hyderabad on 8-9-95. Petitioner was allowed to do duty vide Ex. W2 and petitioner was directed to report at Bangalore vide Ex. W3. As on the date of order Ex. W3 the Bangalore office was closed and as the Bangalore office was closed the petitioner gave a request that transfer vide Ex. W4 for posting at Hyderabad as she was pregnant. Ex. W5 is also a request letter to transfer at Hyderabad. The petitioner was terminated from service vide Ex. W6 dated 23/26-2-96 without conducting any enquiry on the ground of unauthorized absenteeism w.e.f. 11-9-95 stating that it is a punishment.

17. It is argued by the Learned Counsel for the petitioner that the Hon'ble Supreme Court in 1993 FLR Vol 67 page 111, the Hon'ble Supreme Court held that though the standing order provides automatically removal from

service without enquiry held, principles of natural justice violated, requirement of article 14 of Constitution of India must be fulfilled before depriving one of livelihood. Notwithstanding the Standing Orders. He also relied on a Judgement of the Hon'ble Supreme Court reported in 1998 FLR Vol. 79 page 233 wherein it was held that termination of service, services of permanent employee employed by Government, Government Company, Government instrumentality or Statutory Corporation or any other authority cannot be terminated arbitrarily and abruptly by notice of a month of three months or pay in lieu thereof. Even if there is any stipulation in Certified Standing Orders providing for automatic termination of the services of a permanent employee, not directly related to "Production" in a Factory or Industrial Establishment, would be bad if it does not purport to provide an opportunity of hearing to the employee whose services are treated to have come to end automatically. He also relied on 2000 Vol. 84 FLR page 611 Hon'ble Kerala High Court wherein it was held, before ordering the termination of service, sufficient opportunity to explain his case must be given, in every decision, whether judicial, quasi-judicial or administrative, observance of principles of natural justice is applied. He therefore, submits that as no enquiry has been conducted the petitioner is entitled for reinstatement with full back wages, continuity of service and other attendant benefits.

18. It is argued by the Learned Counsel for the Respondent that if one were to look into the record of the petitioner it was not a happy one from the beginning. Whether the accusations are correct or not she has been accused of several irregularities including forging of signatures. Ultimately she committed theft and as admitted by the petitioner on her returning the goods fixtures and furniture as a matter of sympathy, her suspension was revoked and she was directed to report for service. Instead of reporting for service she has chosen to stay at Hyderabad although having received letters and goes to the extent of saying that she has not received the said letter dated 23/26-2-96. Although she has received the same that the Photostat copy of the postal acknowledgement Ex. M4 shows that she received the letter and having kept quite she started making representations.

19. And when did she approach ? After having made use of all the tactics and not returned from 1995 till 1999 she approached the Court in the year 1999 that itself show as how sincere she is about working. Because if she was really interested, even if after everything was done, what happened after 1997 ? The final request of her was made in 1997, what happened till 1999 ? Even if she was pregnant she could have gone and reported at Bangalore and it is height of falsehood to say that she could not locate the office at all. After all when the Vayudoot services were merged she could have gone to any offices of the Indian Airlines at Bangalore and found out what happened to the Vayudoot Ltd., which she has not done and her conduct

deserves no sympathy by the Hon'ble Court. Hence, the petition may be dismissed.

20. It may be seen that there cannot be two opinions that the petitioner avoided Bangalore and wanted a posting at Hyderabad. I am unable to swallow the contention that she could not locate the office. It was sheer case of her trying to join at Hyderabad. But however there is one defect here that no enquiry has been conducted for her absenteeism from duty. She was actually dismissed from service vide Ex. W6 dated 23/26-2-1996 on the ground of unauthorized absenteeism. For which no enquiry has been conducted. It may be seen that she was pregnant. As it was treated as voluntarily abandoned. Actually she joined in 1986 at Hyderabad. She was confirmed in the year 1989 and at her request she was transferred to Bangalore. In September, 1991 she was suspended and issued a charge-sheet after enquiry. She was reinstated on 16-8-95 and she had reported at Hyderabad and did not join at Bangalore. She was only in correspondence avoiding to join at Bangalore. But I cannot go into the previous suspension and what were the reasons for it. And whether a lenient view had been taken or not. Suffice it to say that no enquiry has been conducted for her absenteeism which has been taken as voluntarily abandonment of service. Hence, I am of the opinion that a chance can be given to her by imposing certain conditions and certain punishment. Taking a lenient view and invoking the powers under Sec. 11A of the Act. I direct that the petitioner be appointed as Traffic Assistant on the minimum scale of pay now applicable on or before 1st November, 2002 (Demotion from Sr. Traffic Assistant to Traffic Assistant) and R3 after correspondence or whatever it is with R1 and R2 shall give the correct place of posting and the city. They are at liberty to post her either at Bangalore or at Hyderabad or anywhere else, shall inform the posting within 15 days prior to her joining. In the circumstances she is not entitled for any back wages or continuity of service except her services as Traffic Assistant from 19-4-1986 to 23/26-2-96 shall be counted for the terminal benefits.

Award passed accordingly. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me in the Open Court on this the 24th day of September, 2002.

E. ISMAIL, Presiding Officer

APPENDIX OF EVIDENCE

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1 : Smt. T.L. Martin	MW1 : Sri J.K. Khanna
	MW2 : Sri S.N.A. Jaffery

Documents marked for the Petitioner

Ex. W1 :	Lr. No. PF/HQ/PER/1758 dt. 22-8-95
Ex. W2 :	Copy of joining report of WW1 dt. 11-9-95

- Ex. W3 : Lr. No. PF : AP : PERS : 0216/2610 dt. 11-9-95
 Ex. W4 : Copy of representation of WW1 dt. 25-3-96
 Ex. W5 : Copy of representation of WW1 dt. 30-4-97
 Ex. W6 : Lr. No. IAL : SHOD : HQ : PERS : V927
 dt. 21-7-97

Documents marked for the Respondent

- Ex. M1 : Copy of Lr. No. PF/HQ/PER/1/58 dt. 22-8-95
 Ex. M2 : Copy of joining report Lr. No. AP : PERS :
 0216/2610 dt. 11-9-95
 Ex. M3 : Copy of Lr. No. PF : HQ : PERS : 96/1992
 dt. 23/26-2-96
 Ex. M4 : Copy of postal acknowledgement dt. 26-2-96
 Ex. M5 : Copy of service regulations Chapter XII
 Sec. 5
 Ex. M6 : Copy of Lr. No. PF : HQ : PERS : /675
 dt. 20-2-96

नई दिल्ली, 29 जनवरी, 2003

का. आ. 576.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सउदी एरेबियन एअरलाइंस के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, मुम्बई के पंचाट (संदर्भ संख्या 24/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-01-2003 को प्राप्त हुआ था।

[सं. एल-11012/67/99-आई.आर. (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 29th January, 2003

S.O. 576.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2000) of the Central Government Industrial Tribunal II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Saudi Arabian Airlines and their workman, which was received by the Central Government on 28-01-03.

[No. L-11012/67/99-IR(C-1)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, NO. II, MUMBAI

PRESENT:

S.N. SAUNDANKAR, Presiding Officer

Reference No. CGIT-2/24 of 2000.

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF M/s. SAUDI ARABIAN AIRLINES

The Manager-India
Saudi Arabian Airlines,
Express Towers,
Nariman Point,
Mumbai-400 021.

AND

THEIR WORKMEN

Shri Ahmed Hussain,
E-Sector, BQ Line,
Room No. 9, Cheeta Camp,
Trombay, Mumbai-400 088.

APPEARANCES:

FOR THE EMPLOYER: Mr. P.I. Paulose
Representative.

FOR THE WORKMEN: Mr. P. Chaturvedi, Advocate.

Mumbai, Dated the 5th December, 2002.

AWARD-PART—I

The Government of India, Ministry of Labour by its Order No. L-11012/67/99-(C-I) dtd. 4-2-2000 in exercise of the powers conferred by clause(d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of M/s. Saudi Arabian Airlines, Mumbai in dismissing the services of Mr. Ahmed Hussain Ex-Clerk-cum-Typist w.e.f. 25-2-99 is legal and justified? If not, what relief the workman concerned is entitled to?”

2. Workman Hussain was appointed as clerk-typist by Management-Corporation on 14-5-91. Vide Statement of Claim (Exhibit-5) workman averred that he was suspended by the employer on 19-8-98 for the alleged misconduct and issued him chargesheet dtd. 24-8-1998 and after inquiry he was dismissed from the services from 25-2-1999. It is pleaded that chargesheet given to workman was vague, defective and not specific, he was not given copy of the complaint on which basis the charge was framed thereby violated the rules of Natural Justice. It is averred that proceeding was not recorded properly and on the basis of the apology tendered by the workman the inquiry officer held him guilty and on the basis of that report, workman was dismissed by the employer illegally. It is pleaded that the findings recorded by the inquiry officer are perverse and not based on the evidence and that the inquiry being improper be set aside, directing management to reinstate him in service with full back wages.

3. Management Corporation resisted the claim of workman by filing Written Statement (Exhibit-7) contending that workman was initially engaged as casual employee in 1982 and subsequently was appointed as clerk-typist in 1991. It is averred that company had received report alleging he unauthorisedly collected a sum of Rs. 200 from one of

the passengers Mr. Mohammed Yusuf Mehboob Bilgi to allot a seat for Flight No. SV 751 to go to Riyadh and he paid the same on the demand of workman. Therefore inquiry was held against him by giving full opportunity and that say of the applicant was sought on the findings of the inquiry officer by the show cause notice dtd. 6-11-98 and considering the documents and the findings workman was dismissed from service. It is averred that a fair inquiry was conducted by the inquiry officer and that the findings were recorded by him on the basis of documents and evidence before him and consequently not perverse. Consequently Corporation contended inquiry being fair and findings not perverse workman's claim be dismissed with costs.

4. By Rejoinder (Exhibit-8) workman reiterated the recitals in the Statement of Claim denying the averments in the Written Statement. On the basis of the pleadings issues were framed at (Exhibit-9). In that context workman filed affidavit in lieu of Examination-in-Chief (Exhibit-13) and closed oral evidence vide purshis (Ex-16). In rebuttal management filed affidavit of inquiry officer, Mr. Doshi and closed evidence vide purshis (Exhibit-21).

5. Workman filed written submissions (Exhibit-22) and the management (Exhibit-23). On perusing the record as a whole, the written submissions and hearing both sides I record my findings on the following preliminary issues for the reasons stated below :—

Issues	Findings
1. Whether the domestic inquiry held against the workman was as per the principles of Natural Justice ?	Yes
2. Whether the findings of the inquiry officer are perverse ?	No

REASONS

6. Admittedly management-Corporation conducted inquiry against the workman vide chargesheet dtd. 24-8-98. According to workman as seen from the record inquiry is not fair since the charges were vague and not specific and that copy of the complaint on the basis of which the charges were framed had not been given to him and that proceeding was not properly recorded. Inquiry officer denied the same stating inquiry was conducted as per the Principles of Natural Justice.

7. So far the charges are concerned I have gone through the documents filed with list (Exhibits-11 & 12). Chargesheet dtd. 24-8-98 filed with list (Exhibit-11) clearly shows that on 16th August '98 workman unauthorisedly collected a sum of Rs. 200 from one passenger viz. Bilgi holding Indian Passport No. 305197 and Ticket No. 0654409451896 to allot him a seat for flight SV-751 to travel to Riyadh. Workman in his cross-examination para 18 admits he had replied the said chargesheet vide explanation dtd. 26-8-98. Inquiry proceedings filed with (Exhibit-12/pg. 2)

shows inquiry officer, Mr. Doshi by way of preliminary questions had specifically asked the workman on receipt of chargesheet and understanding contents therein to which he specifically admitted. Workman as seen from the record, was initially a casual employee since 1982 and a clerk-typist since 1991 knows English well. Had he really not understood the charges and the charges been vague would have whispered on that. However nothing of the sort on record. On perusal of the chargesheet nowhere finds any ambiguity, therefore hardly find substance in the afterthought statement of the workman on the charges. So far the non receipt of copy of complaint is concerned, he is silent in the affidavit (Exhibit-13). Workman admits in cross-examination that on each date of inquiry he had signed the proceedings which recorded in his presence, vide pg. 1 to 11 (Exhibit-12). From these pages nowhere finds that workman at any time complained for not receiving the copy of the complaint. In fact, it is seen the witness examined by the management, Mr. Marchon pointed out the allegation and he was cross-examined by the workman. So far proceedings admittedly recorded in the presence of workman, if really, workman found abnormality, would have resisted however he remained silent. From this point of view his contention that inquiry was not fair on the grounds referred to above, is afterthought and consequently does not implicit reliance.

8. So far domestic inquiry is concerned Their Lordships of the Apex Court in *Sur Enamel and Stamping Works Vs. Their Workmen 1963 II LLJ SCC pg. 367* ruled that enquiry cannot be said to have been properly held unless :

1. the employee proceeded against has been informed clearly of the charges levelled against him.
2. the witnesses are examined ordinarily in the presence of the employee in respect of the charges.
3. the employee is given a fair opportunity to cross examine witnesses.
4. he is given a fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter, and
5. the inquiry officer records his findings with reasons therefor the same in his report.

9. Since workman given reply to the chargesheet, proceedings was recorded in his presence and that he was admittedly given opportunity to examine himself and cross-examined the witness of the management and that he was also given opportunity to give say on the inquiry report, there was compliance of the tests laid down in the decisions above.

10. The Learned Counsel for the workman, Mr. Chaturvedi inviting attention of the court to the cross-examination of the inquiry officer submits that the inquiry officer was confused on the job profiles and the designation

of workman and thereby the inquiry vitiates. The inquiry report clearly depicts the chargesheet, evidence led and the reasoning given thereon. What is required to be seen in the domestic inquiry whether the workman knew the nature of accusation, whether he has been given an opportunity to state his case, and whether the authority acted in good faith. On perusal of the inquiry proceedings nowhere find the departure on the points referred to above.

11. Workman admits in his cross-examination that he had not objected on appointment of inquiry officer. He had given an apology letter dtd. 26-8-98 (pg. 16-17-Exhibit-12) This letter clearly points out that workman repented on the lapse on his part and had prayed for pardon. It is not that inquiry officer concluded without the record. Therefore the findings being based on documents and evidence with detailed reasonings, hardly can be said to be perverse. 'Perversity' is that when the findings are such which no reasonable person would have arrived at on the basis of the material before him. In the case in hand, findings are recorded on the basis of documents and evidence.

12. The Learned Counsel, Mr. Chaturvedi for the workman submits that inquiry officer was confused on the job profile of the workman which is departure from the principle of Natural Justice. Rules of Natural Justice are not embodied rules. It depends upon the facts and circumstances of particular case. Justice means justice between both parties. The interest of justice equally demands that the guilty should be punished and that technicalities and irregularities which do not occasion failure of justice are not allowed to defeat the ends of Justice. Principles of Natural Justice are but means to achieve the ends of justice. They cannot be perverted to achieve the very opposite end which would be a counter productive exercise as observed by Hon'ble Supreme Court in *State Bank of Patiala & Ors Vs. S. K. Sharma 1996 II CLR pg. 29*. On perusing the record as a whole, in the light of the decision in *Sur Enamel and Stamping Works Vs. Their Workmen* it is apparent sufficient opportunity was given to the workman and that he was well aware on the charges framed against him. The proceedings were properly recorded and that the findings were recorded on the basis of documents and evidence, therefore hardly can be said that Principles of Natural Justice was contravened and that findings are perverse. Consequently it will have to be said that the inquiry was conducted as per the Principles of Natural Justice and fair play and the findings are not perverse. Issues are therefore answered accordingly and hence the order :—

ORDER

The domestic inquiry conducted against the workman, Mr. Ahmed Hussain was as per the Principles of Natural Justice and the findings of the inquiry officer are not perverse.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 22 जनवरी, 2003

का. आ. 577. —औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सदरन रेलवे, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, चेन्नई, के पंचाट (संदर्भ संख्या आई.डी.नं. 651/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-01-2003 को प्राप्त हुआ था।

[सं. एल-41012/143/98-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd January, 2003

S.O. 577.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 651/2001) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Southern Railway and their workman, which was received by the Central Government on 21-01-2003.

[No. L-41012/143/98-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 10th December, 2002

Present : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 651/2001

Tamil Nadu Principal Labour Court

CGID No. 178/99)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the workman Sri Mohammad Yakoob and the Management of Southern Railway, Chennai.]

BETWEEN

Sri Mohammed Yakoob : I Party/ Workman

AND

1. The General Manager, : II Party/Management
Southern Railway,
Chennai.

2. The Chief Works Manager,
Railway Workshop,
Ponmalai, Trichy

Appearance :

For the Claimant : Mr. M. Chandran,
Authorised Representative.

For the Management : Mr. G. Palani, Advocate

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 21A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-41012/143/98/IR(B-I) dated 24-02-1999.

This reference has been made earlier to the Tamil Nadu Principal Labour Court, Chennai, where the same was taken on file as CGID No. 178/99. When the matter was pending enquiry in that Principal labour Court, the Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu Principal Labour Court to this Tribunal for adjudication. On receipt of records from that Tamil Nadu Principal Labour Court, this case has been taken on file as I.D. No. 651/2001 and notices were sent to the authorised representative for the I Party/workman and counsel on record for the II Party/Management, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 24-10-2001 with their respective parties and to prosecute this case further. Accordingly, the authorised representative for the I Party/Chaimant and learned counsel for II Party/Management along with their respective parties have appeared and prosecuted this case further. The Claim Statement of the I Party/workman and the Counter Statement II Party/Management were filed earlier before the Tamil Nadu Principal Labour Court, Chennai, when the matter was pending there for adjudication.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on the side of the I Party/Workman alone, other material papers on record, after hearing the arguments advanced by the authorised representative for the I Party/Petitioner and the learned counsel for the II Party/Management, and this matter having stood over till this date for consideration, this Tribunal has passed the following :

AWARD

The Industrial Dispute referred to the above order of reference by Central Govt. for adjudication by this Tribunal is as follows :

"Whether the action of the Chief Works Manager, Railway Workshop, Trichy, in terminating the services of Sri Mohammed Yakooob with effect from 21-12-1993 is justified? If not, to what relief is the workman entitled?"

This industrial dispute has been raised by the I Party/Workman Sri Mohammed Yakooob challenging the action of the II Party/Southern Railway management in terminating his services w.e.f. 21-12-1993 as unjustified one and has requested this Tribunal to pass an award by setting aside the order of termination and direct the II Party/Management Southern Railway to reinstate him in service with full back wages and all other attendant benefits. The case of the Petitioner as averred in his Claim Statement is that he joined

the railway service in the year 1981 as Khalasi and later he has been promoted as Grade III Fitter in Mechanical Mill Wright Shop in Golden Rock Workshop, Southern Railway and when he was working as such, on 22-6-92 while he returning from duty, the tool box in his two wheeler was found to contain about 1½ kg. Brass-dust and he was misguided to accept the guilt, and thus he was charge sheeted for having possessed railway property unlawfully and hence criminally prosecuted under section 3(A) of Railway Property (unlawful possession) Act in the Court of Judicial Magistrate No. II at Trichy. The Court convicted him and awarded penalty of Rs. 1000 fine with imprisonment till rising of the Court. Then he preferred an appeal before the Sessions Court, Trichy and the appellate Court has modified the conviction into fine of Rs. 500 and has set aside the punishment of imprisonment. Soon after the punishment was imposed by the Judicial Magistrate, the II Party/Management Southern Railway has served a notice on him to show cause why he should not be removed from service under Rule 14(i) of the Railway Servants (Discipline & Appeal) Rules, 1968. The Petitioner has submitted a detailed representation. Even then, a penalty advice has been served on him with immediate effect pending criminal appeal. As per the penalty advice, he has been removed from service with effect from 21-12-1993 afternoon for his conviction under section 3(A) of Railway Property (Unlawful Possession) Act, 1966 and by invoking Rule 14(i) of the Railway Servants (Discipline and Appeal) Rule, 1968 without providing him an opportunity to put forth his defence. Hence, the action of the Respondent/Management in terminating him from service is only an arbitrary exercise of power and discriminatory apart from against the principles laid down under Industrial Disputes Act, 1947. As the steps taken by him before the conciliating authority ended in a failure, on submission of failure of conciliation report by the authority, the Govt. was pleased to refer this matter to this Tribunal for adjudication.

3. It is the contention of the II Party/management Southern Railway in their Counter Statement that Production Engineer, Golden Rock considered the conduct of the Petitioner which has led to his conviction that renders the Petitioner's further retention in public service undesirable and the Petitioner is not a fit person to be retained in service, so, by exercising his power conferred under Rule 14(i) of Railway Servants (Discipline & Appeal) Rules, 1968 proposed to impose on him the penalty of removal from service, as his conviction in the said Railway Property unlawful possession's case involves moral turpitude and consequently issued the penalty advice dated 15/20-12-1993 for removing the Petitioner from service w.e.f. 21-12-1993. The appeal preferred by the Petitioner to the Appellate Authority was considered and in the appeal, the Appellate Authority, the Deputy Chief Mechanical Engineer (P) Golden Rock has confirmed the punishment imposed by the Disciplinary Authority, as the Petitioner is a

convicted person by the Court of Law, as he is not a fit person to be employed in Govt. Service. Hence, it is prayed that the Hon'ble Tribunal may be pleased to dismiss the claim petition as devoid of merits.

4 When the matter was taken up for enquiry, no one has been examined as a witness on either side. 8 documents have been filed on the side of the I Party/Petitioner as Ex. W1 to W8 and no document has been filed on the side of the Respondent/Management. The authorised representative for the I Party/Petitioner and the learned counsel for the II Party/Management have filed their respective written arguments.

5. The point for my consideration is :

"Whether the action of the Chief Works Manager, Railway Workshop, Trichy, in terminating the service of Sri Mohammed Yakoob with effect from 21-12-1993 is justified ? If not, to what relief is the workman entitled ?"

Point :

The learned representative for the I Party/Petitioner in his written arguments has contended that the Respondent/Management has failed to proceed in terms of the Railway Board's order dated 31-05-1956, which stipulates that removal or dismissal etc. is not to be automatic on criminal conviction and each case should be examined on its merits and with reference to the facts leading to conviction against the Govt. servant on which his conviction is based, so that he was guilty of moral turpitude or of grave misconduct which is likely to render his further retention in service undesirable or contrary to public interest and that moral turpitude means anything done contrary to justice, modesty or good morals. It implies the depravity and wickedness of character or disposition of the person charged with the particular conduct. The learned representative for the I Party/Workman has very much relied upon the decision of the Hon'ble Supreme Court in T.R. Chellappan's case reported as 1976 SCC (L & C) 398, it is a case, wherein the concerned workman has committed a petty offence and he has not committed any offence of theft as it is in the present case and in that case, no show cause notice has been given to the Petitioner prior to the imposition of penalty of removal from service. But, here in this case, the Disciplinary Authority has issued a memo to the Petitioner mentioning the proposed punishment of removal from service calling upon the Petitioner to submit his explanation and only after the submission of the explanation of the Petitioner for the memo issued to him and after considering the contention of the Petitioner, the Disciplinary Authority has come to the conclusion that it is a proper case, wherein the proposed punishment of removal from service has to be imposed. So the case cited by the learned representative for the I Party/Workman is in no way similar to the case in hand in respect of the Petitioner in this case. As it is contended by the learned counsel for the Respondent/Management in his written submissions,

the Production Engineer, Golden Rock considers that the conduct of the Petitioner which has led to his conviction is such as that renders his further retention in public service undesirable and the said employee is not a fit person to be retained in service and the Disciplinary Authority in exercising of power conferred under Rule 14(i) of the Railway Servants (Discipline & Appeal) Rules, 1968 proposed to impose on him the penalty of removal from service as his conviction in the said Railway Property (unlawful possession) case involves moral turpitude and consequently, after the issuance of penalty advice, the Petitioner was removed from service with effect from 21-12-1993 and it is a proper and justified action taken by the Disciplinary Authority. The Appellate Authority also, after carefully considered the representation of the Petitioner in his appeal, confirmed the punishment imposed by the Disciplinary Authority, as the Petitioner is a convicted person by the Court of Law, he is not a fit person to be employed in the Govt. service. It is the further contention of the learned counsel in his written arguments that the Railway Administration has proceeded with the imposition of penalty of removal only after the Trial Court has passed the order of conviction and even otherwise, the Petitioner at the earliest stage itself has made confession statement of unlawful possession of railway property and the Petitioner's Representative reference to T.R. Chellappan and Pawan Kumar's case has no relevance, since the act and conduct against the Petitioner was convicted clearly comes within the meaning of moral turpitude and no leniency shall be shown on the Petitioner, who was prosecuted under criminal charge. These arguments of the learned counsel for the Respondent/Management put forth in his written arguments can be accepted as correct on the basis of the available materials in this case. The cases referred to by the Petitioner's Representative as supportive judgements for his contentions cannot be accepted as correct, because the facts of those cases are quite different from the facts of this present case. This is a case of clear criminal act of theft of Railway Property and unlawful possession of railway property and the criminal court has found the Petitioner guilty and has imposed the punishment, which has been modified by the Appellate Court having confirmed the findings of the Trial Court. So, under such circumstances, it has been properly decided by the Disciplinary Authority after issuing the memo for the proposed punishment and after hearing the representation of the Petitioner, imposed the punishment of removal from service, since the action of the Petitioner involves moral turpitude. Hence, under such circumstances, it cannot be said that the action of the Respondent/Management i.e. Chief Works Manager, Railway Workshop, Trichy in terminating the services of the Petitioner Sri Mohammed Yakoob with effect from 21-12-1993 is unjustified and improper. Hence, the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

6. In the result, an Award is passed holding that the concerned workman Sri Mohammed Yakoob is not entitled for any relief. No Cost.

(Dictated to Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day of the 10th December, 2002).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :—

For the I Party/Workman :—

Ex. No.	Date	Description
W 1	20-07-93	Xerox copy of the order passed by the Judicial Magistrate, Trichy in 768/92
W 2	14/19-8-93	Xerox copy of the memo issued to Petitioner By Respondent/Management
W 3	24-09-93	Xerox copy of the explanation submitted by the Petitioner/Workman to the memo.
W 4	15/20-12-93	Xerox copy of the penalty advice issued by Respondent to Petitioner removing him from service.
W 5	27-12-93	Xerox copy of the appeal preferred by the Petitioner To Appellate Authority
W 6	1/10-2-94	Xerox copy of the order of Appellate Authority against The appeal preferred by Petitioner
W 7	10-11-94	Xerox copy of the judgement of Sessions Court, Trichy In C.A. No. 174/93
W 8	Nil	Extract of relevant Railway Servants (D & A) Rules, 1968

For the II Party/Management : Nil

नई दिल्ली, 22 जनवरी, 2003

का. आ. 578.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, चेन्नई के पंचाट (संदर्भ संख्या आई.डी. नं. 84/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-01-2003 को प्राप्त हुआ था।

[सं. एल-12012/127/2002-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd January, 2003

S.O. 578.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 84/2002) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of State Bank of India and their workman, which was received by the Central Government on 21-01-2003.

[No. L-12012/127/2002-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 12th December, 2002

Present : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 84/2002

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the workman Sri N. Jeya Anantham and the Management of State Bank of India, Zonal Office, Madurai.

BETWEEN

Sri N. Jeya Anantham : I Party/ Workman

AND

The Deputy Manager, : II Party/Management
State Bank of India,
Personnel Section,
Zonal Office, Madurai.

APPEARANCE :

For the Workman : Unrepresented

For the Management : M/s. K. S. Sundar & M.
Ashadevi, Advocates.

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-12012/127/2002/IR(B-I) dated 27-08-2002.

2. On receipt of order of reference dated 27-08-2002 from the Ministry in respect of this industrial dispute in question, notices were sent by this Tribunal to both the parties by RPAD directing them to appear before this Tribunal for the hearing on 26-9-2000 and to file their respective Claim Statement and Counter Statement. Though the notices sent by Registered Post were served duly on the I Party/Workman Sri N. Jeya Anantham and the II Party/Management for the first hearing on 26-9-2002, the I Party/Petitioner remained absent and the II Party/Bank

Management's representative alone was present. Then the case was adjourned to 11-10-2002 for the I Party/Petitioner to appear and file his Claim Statement. On that day also, he has not appeared and filed his Claim Statement. So, the matter was adjourned to next hearing on 28-10-2002 directing the Respondent/Management to file their statement of objection to the dispute raised by the I Party/Petitioner against them under this reference, with a copy of the Petitioner he has filed earlier before the conciliating authority while raising this dispute against the Respondent/Management for making his claim against them. Then on 28-10-2002 as both the parties were not appeared and there was not representation on either side, the case was adjourned to 13-11-2002. On 13-11-2002 also as usual, the I Party/Workman has not appeared and no Claim Statement has been filed on his behalf and the II Party/Management has filed their statement of objection and the counsel for the II Party/Management was heard and orders were reserved to decide this industrial dispute, on merits, with the available materials and records.

3. Upon perusing the order of reference, statement of objection filed by the II Party/Management, the other materials on record after hearing the learned counsel for the II Party/Management and this matter having stood over till this date for consideration, this Tribunal has passed on merits, the following :—

AWARD

4. The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the action of the management of State Bank of India in terminating the services of Shri N. Jeya Anantham is justified ? If not what relief is entitled ?”

5. As it is seen from the Schedule of Reference, the I Party/Workman Sri N. Jeya Anantham has raised this industrial dispute against the II Party/Management State Bank of India, Zonal Office, Madurai, challenging their action in terminating his service as an unjustified one. But he has not filed his Claim Statement with his averments to make his claim against the Respondent/Management.

6. The averments in the Statement of Objection filed by the II Party/Management State Bank of India, Zonal, Office, Madurai, (hereinafter refers to as Respondent) are briefly as follows :

The claim of the Petitioner that his services should be regularised is neither maintainable in law nor on facts of the case. The petitioner was casual daily wager and worked against leave vacancy. He was engaged for the purpose of sweeping at the branch. He has concealed the fact that he was not eligible and entitled to continue as a casual or daily wager in Sattur Branch of the bank. The II Party/Management engaged temporary employees due to

business exigencies for the purpose of duties in subordinate cadre. Such arrangements were prevailing in the bank from the year 1970 onwards resulting in hundreds of temporary and casual employees even though there were no vacancies. These temporary employees/casuals were claiming permanent absorption and their causes were espoused by State Bank of India federation resulting in five settlements and the first two were dated 17-11-87 and 16-7-88 and the third relating to casual or daily wages dated 27-10-88 and fourth and fifth settlements dated 9-1-91 and 9-6-95 were executed. In terms of the above settlements the temporary and casual employees were to be continued for permanent absorption as per their eligibility along with similarly placed other temporary and casual employees. As per the above settlements, the temporary employees were to be waitlisted and appointed against vacancies upto 1994 and the daily wages were to be considered and waitlisted and appointed thereafter against the vacancies. Accordingly, in Madurai Zonal Office 602 candidates were waitlisted in the category of temporary employees and out of them 219 were appointed. The remaining 383 waitlisted candidates were not appointed for the reason that there are no vacancies and hence, the waitlist lapsed on 31-3-97. In terms of the settlements referred above, if any leave vacancy or casual work arises, the same should be done by engaging the waitlisted temporary employees only and fresh engagement of any further daily wagers was prohibited. As per clause 10 of settlement dated 17-11-87 only the waitlisted candidates should be engaged against leave vacancies and the same is that 'henceforth there will be no temporary appointments in the subordinate cadre. However, in case of sweeper (where scavengers cannot be used as replacement) as watch and ward staff, temporary appointment could be restored to on restrictive basis from amongst empanelled candidates as per existing guidelines of the bank'. The Petitioner was engaged as a sweeper as per the above agreement against leave vacancies as per clause 10 of Bipartite Settlement referred to above. Since already waitlisted temporary employees could not be appointed, the other daily wager could not be considered for wait listing/appointment. The daily wager's claim could not be considered for lack of vacancies. The Petitioner cannot claim any superior right than the other waitlisted candidates who were not appointed. The case of the Petitioner is not similar to workmen who worked for 240 days against a vacancy in a continuous block of 12 calendar months. The vacancy in Sattur branch was filled up as aforesaid as there are no vacancies. The Petitioner was not employed as per Bipartite Settlement which are binding on the Petitioners and the Petitioner is not entitled to any relief whatsoever. The Petitioner was not appointed to the post in accordance with rules but was engaged on the basis of need of work. The Supreme Court in the case of HIMANSHU KUMAR VIDYARTHI AND OTHERS Vs. STATE OF BIHAR AND OTHERS as reported in AIR 1997 SC 3657 *inter alia* held that *the disengagement from service*

of the daily wages cannot be construed to be a retrenchment under Industrial Disputes Act. The concept of retrenchment therefore, cannot be stretched to such an extent as to cover the daily wage employees. The Supreme Court has further held that the daily wage employees have no right to the post and their disengagement is not arbitrary. In the circumstances, it is requested that an Award may be passed not granting any relief to the Petitioner.

7. The point for my consideration is :—

“Whether the action of the management of State Bank of India in terminating the services of Shri N. Jeya Anantham is justified? If not what relief is entitled?”

Point :—

As stated earlier, in spite of the fact that notice has been sent by this Tribunal by Registered Post directing the I Party/Petitioner to appear before this Tribunal and to file his Claim Statement and the same has been duly served on him the Petitioner/Workman has not chosen to appear before this Tribunal on the first hearing on 26-9-2002 and also on the subsequent dates of hearing and he has not chosen to file his Claim Statement at all. The Respondent/Management alone has filed their statement of objection to the industrial dispute raised by the I Party/Workman. As it is evidenced from the Schedule of Reference as that of an act challenging the action of the management of State Bank of India in terminating his services as unjustified one. From the un rebutted averments of the Respondent/Management in their statement of objection, it is seen that the Petitioner was engaged only a casual daily wage and he was working against leave vacancy and he was not appointed as a permanent employee of the Respondent/Bank in their branches and he was engaged for the purpose of sweeping at the branch as a temporary employee, due to business exigencies for the purpose of duties in the subordinate cadre. The averments made in the statement of objection by the Respondent/Management about the different Bipartite Settlement and also maintaining waitlist for the candidates who have appointed as casual labourers earlier have not been disputed by the I Party/Workman by filing any Claim Statement or reply statement. In the absence of any plea on the side of the Petitioner/Workman, it is not known whether he had worked for 240 days against the vacancy in a continuous block of 12 calendar months or not. Under such circumstances, it cannot be said that the non-engagement of the Petitioner/Workman by the Respondent/Management in their bank branch amounts to any retrenchment, when he has been admittedly engaged by the Respondent/Bank as a daily wage. As it is decided by the Supreme Court in a judgement relied upon by the Respondent/Management in their statement of objection, disengagement from services of a daily wage cannot be construed to be a retrenchment under Industrial Disputes Act, 1947 and the daily wage has no right to the post and the disengagement cannot be said to be an arbitrary action

of the Respondent/Management. Under such circumstances, it cannot be held that the action of the management of the State Bank of India in disengaging the Petitioner Sri N. Jeya Anantham from the services of the Respondent/Bank as an unjustified one and hence the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the concerned workman Sri N. Jeya Anantham is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 12th December, 2002).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

On either side : None

Documents Exhibited :—

On either side : Nil

नई दिल्ली, 22 जनवरी, 2003

का. आ. 579.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-कम-लेबर कोर्ट, चेन्नई के पंचाट (संदर्भ संख्या आई. डी. नं. 70/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-01-2003 को प्राप्त हुआ था।

[सं. एल-12012/81/2002-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 22nd January, 2003

S.O. 579.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 70/2002) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of state Bank of India and their workman, which was received by the Central Government on 21-01-2003.

[No. L-12012/81/2002-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 12th December, 2002

Present : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 70/2002

[In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of

Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the workman Sri P. Krishnan the Management of State Bank of India, Tiruchirappalli.

BETWEEN

Sri P. Krishnan : I Party/ Workman

AND

The Deputy General Manager : II Party Management
State Bank of India,
Tiruchirappalli.

APPEARANCE :

For the Workman : Unrepresented

For the Management : M/s. K. S. Sundar & M.
Ashadevi, Advocates.

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-12012/81/2002/1R(B-I) dated 29-07-2002.

2. On receipt of order of reference dated 29-07-2002 from the Ministry in respect of this industrial dispute in question, notices were sent by this Tribunal to both the parties by RPAD directing them to appear before this Tribunal for the hearing on 27-8-2002 and to file their respective Claim Statement and Counter Statement. Though the notices sent by Registered Post were served duly on the I Party/Workman Sri P. Krishnan and the II Party/Management for the first hearing on 27-8-2002, the I Party/Petitioner remained absent and the II Party/Bank Management's representative alone was present. Then the case was adjourned to 11-09-2002 for the I Party/Petitioner to appear and file his Claim Statement. On that day also, he has not appeared and filed his Claim Statement. The learned counsel who appeared for the II Party/Management filed his vakalat and the case was adjourned to next hearing on 25-09-2002 for the I Party/Petitioner to file his Claim Statement in respect of this referred industrial dispute. Even on that date, he has not appeared and there was no representation on his side. No Claim Statement for the I Party/Petitioner has been filed. So, the matter was adjourned to next hearing on 10-10-2002 directing the Respondent/Management to file their statement of objection to the dispute raised by the I Party/Petitioner against them under this reference, with a copy of the Petitioner he has filed earlier before the conciliating authority while raising this dispute against the Respondent/Management for making his claim against them. Then on 10-10-2002 as both the parties were not appeared and there was no representation on either side, the case was adjourned to 29-10-2002. On that date also, as there was no representation for the I Party/Petitioner

and on the request of the counsel representing the II Party/Management, the case was adjourned to 14-11-2002 granting extension of time for filing statement of objection of the II Party/Management. On 14-11-2002 also as usual, the I Party/Workman has not appeared and no Claim Statement has been filed on his behalf and the II Party/Management has filed their statement of objection and the counsel for the II Party/Management was heard and orders were reserved to decide this industrial dispute, on merit, with the available materials and records.

3. Upon perusing the order of reference, statement of objection filed by the II Party/Management, the other materials on record after hearing the learned counsel for the II Party/Management and this matter having stood over till this date for consideration, this Tribunal has passed on merits, the following :

AWARD

4. The Industrial Dispute referred to in the above mentioned order of reference by the Central Govt. for adjudication by this Tribunal is as follows :

"Whether the action of the management of State Bank of India in terminating the services of Shri P. Krishnan without following the provisions of Section 25F of Industrial Disputes Act is justified ? If not to what relief the workman is entitled ?"

5. As it is seen from the Schedule of Reference, the I Party/Workman Sri P. Krishnan has raised this industrial dispute against the II Party/Management State Bank of India, Trichy challenging their action in terminating his service without following the provisions of Section 25F of the Industrial Disputes Act, 1947 as an unjustified one. But he has not filed his Claim Statement with his averments to make his claim against the Respondent/Management.

6. The averments in the Statement of Objection filed by the II Party/Management State Bank of India, Zonal, Office, Trichy (hereinafter refers to as Respondent) are briefly as follows :

This industrial dispute is not maintainable as the I Party is not a workman as he was not selected for appointment on merits. The Respondent/Bank is engaged in the business of banking and in custody of public funds and in order for safe keeping of funds, the branches of the Respondent/Bank appointed Ex-servicemen in the post known as security guard. For this purpose, the Ex-Servicemen Board sponsored the Ex-Servicemen for appointment and one such candidate was the Petitioner and he was engaged in Musiri Branch. The Petitioner was engaged in Musiri Branch during the year 1993. Barring sponsor from Ex-servicemen Board no other eligibility was verified. Such a verification will be done, when such candidates like the Petitioner were considered for appointment. The Petitioner could not be appointed as he

was below eligible standards in the physical test and interview. The engagement of the Petitioner earlier was only temporarily and the Petitioner was to be considered on merits for permanent appointment. It was decided by the Respondent/Bank to fill up vacancies in various branches permanently. Therefore, the Respondent has conducted an interview for the said purpose. Nearly about 519 candidates were called for interview and out of which 354 candidates were appeared for interview and physical test. The bank has selected 72 candidates by the interview committee consisted of Assistant General Manager, Chief Manager (Per HRD), Branch Manager and Module Security Officer of the bank. The selection process consisted of physical test and personal interview. Since the nature of the work of security guard of the bank is very sensitive for guarding the bank's currency chest and other valuable and there cannot be any compromise on selection procedure. The interview conducted by the Selection Committee constituted by the bank was proper and not formal. The applicant along with the two others who have failed to get appointment along with the applicant have filed W.P. No. 15446 of 1999 challenging the order of selection on untenable grounds and the same was rightly dismissed by the Hon'ble High Court. The Writ Appeal No. 13/2000 was also dismissed. The security guards were drawn from the Ex-Servicemen Board will not get any right automatically for permanent employment. The applicant is not given any employment in any regular vacancy. Hence, the services if any rendered by him intermittently will not give him any right to seek for permanent appointment in the Respondent/Bank and it is empowered to fill up the permanent vacancies from the eligible candidates. Hence, the claim of the Petitioner that he ought to have been first appointed in the vacancies is erroneous and unsustainable. The Respondent/Bank has every right to fill up the permanent vacancies from the eligible candidates on merits by appointment. There is absolutely no necessity on the part of the bank to take into consideration the intermittent services rendered by the Petitioner in the casual vacancies caused from time to time. The physical test so conducted by the bank is an essential requirement for its appointment. The Petitioner who was found not eligible for appointment cannot claim permanent appointment after dismissal of the Writ Petition. Hence, it is prayed that an award may be passed that the Petitioner is not eligible for the relief of permanent appointment.

7. The point for my consideration is :—

“Whether the action of the management of State Bank of India in terminating the services of Shri P. Krishnan without following the provisions of Section 25F of Industrial Disputes Act is justified ? If not to what relief the workman is entitled ?”

Point :—

Though the Petitioner has raised this industrial dispute against the Respondent/Management and on the

failure of conciliation before the conciliating authority and on submission of failure of conciliation report by the conciliating authority to the Ministry, the Ministry was pleased to refer this dispute under reference for adjudication by this Tribunal and notices sent to the I Party/ Workman to appear before this Tribunal and to put forward his claim in respect of this industrial dispute by filing Claim Statement, the Petitioner/Workman has not chosen to appear before this Tribunal and to file his Claim Statement. On the other hand, in the statement of objection filed by the Respondent/Management, it is clearly averred that the Petitioner was employed on temporary basis as security guard in Musiri Branch and later he appeared for the interview conducted by the Respondent/Bank management along with 519 candidates, who applied for and called for the interview and only 72 candidates have been selected out of 354 candidates appeared for the interview, but the Petitioner has not been selected, since he was below eligible standards in the physical test and interview and that the engagement of the Petitioner earlier was only temporary and he was not considered on merits for permanent appointment. All these things have not been denied by the Petitioner by appearing before this Tribunal and to put forth by way of counter claim against the Respondent/Management. It is also stated in the statement of objection that the Petitioner and two others have earlier approached the High Court of Madras by filing writ petition seeking an appointment in the Respondent/Management and the said writ petition as well as writ appeal have been dismissed by the High Court of Madras. From the averments available in the statement of objection filed by the Respondent/Management, it is seen that the Petitioner was not given any employment in regular vacancy and he was engaged as a security guard as a candidate sponsored earlier by the Ex-Servicemen Board, prior to the selection has been made by the Respondent/Management for permanent post and his engagement as a security guard temporarily prior to the interview conducted for selecting personnel for permanent employment does not give any right automatically for any permanent employment. As it is contended by the Respondent/Management in statement of objection, the intermittent temporary engagement of the Petitioner as security guard in the Respondent/Bank branch will not give him any right for permanent absorption, hence, the claim of the Petitioner against the Respondent/Management for permanent employment as security guard at Respondent/Bank branches cannot be granted. It is seen from the averment in the statement of objection that on appointment of persons selected through interview for the permanent post of security guard in the Respondent/Bank branches, the Petitioner, who engaged temporarily in the Respondent/Bank branches as security guard, that too intermittently, has been disengaged by the Respondent/Bank. So under such circumstances, it cannot be said that the Respondent/Bank has terminated his service and had failed to follow the provisions under section 25F of the

Industrial Disputes Act. Hence, the action of the Respondent/Bank Management in disengaging the Petitioner Sri P. Krishnan from service is justified and the Petitioner/Workman is not entitled for any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the concerned workman Sri P. Krishnan is not entitled for any relief. No Cost.

[Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 12th December, 2002].

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None

Documents Exhibited :

On either side : Nil

नई दिल्ली, 24 जनवरी, 2003

का. आ. 580.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्मॉल इंडस्ट्रीज डेवलपमेंट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट (संदर्भ संख्या आई. डी. नं. 83/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-01-2003 को प्राप्त हुआ था।

[सं. एल-12012/346/2000-आई.आर.(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 24th January, 2003

S.O. 580.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 83/2001) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Small Industries Development Bank of India and their workman, which was received by the Central Government on 23-01-2003.

[No. L-12012/346/2000-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, BHUBANESWAR

Present :

Shri S. K. Dhal, OSJS, (Sr. Branch).

Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 83/2001

Date of conclusion of hearing—17th Dec. 2002

Date of Passing Award—31st Dec. 2002

Between :

The Management of the Deputy
General Manager, Small Industries

Development Bank of India,
OCHC Building, 4th Floor,

Bhubaneswar (Orissa)—751001. : 1st Party-Management
AND

Their Workmen Shri Krupasindhu Mahalik,
Plot No. 506, Sahid Nagar,

Bhubaneswar (Orissa)—751007. : 2nd Party-Workman.

APPEARANCE :

Shri A. C. Sahu, Asst. General

Manager, SIDBI, Bhubaneswar. : For the 1st Party-
Management.

Shri Krupasindhu Mahalik : For Himself 2nd party-
Workman.

AWARD

The Government of India in the Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. L-12012/346/2002/IR(B-I) dated 05-01-2001.

“Whether the action of the Management of SIDBI in terminating the services of Shri Krupasindhu Mahalik, who was appointed on contract basis against a permanent vacancy, is justified? If not, what relief the disputant is entitled to?”

2. The case of the 2nd Party as per his Claim Statement may be stated in brief.

He was selected as Driver-cum-Peon by the 1st Party-management after formal interview and was posted against an existing vacant post. The appointment order was on contract basis for three months with fixed remuneration of Rs. 3,000 per month. The contract has to be expired on 20-8-1999 but the 2nd Party was allowed to work till 15-10-1999. Thereafter he was disengaged. According to the 2nd Party when he was appointed against a permanent vacancy after due interview and had rendered services for 240 days he is entitled for the post. His termination is illegal and in violation of the provisions of the Industrial Disputes Act. He has further pleaded that, the payment stated to have been made through M/s. Aksh Travels is a paper transaction to avoid his claim, but actually he was being paid by the 1st Party-Management and was never deputed by M/s. Akash Travels and that he has not received any payments from the said M/s. Akash Travels, he has prayed for reinstatement in service with full back wages with

further prayer that his termination may be declared as illegal.

3. The 1st party-Management has filed their Written Statement. Admitting the appointment of the 2nd party the 1st Party-Management has taken the stand that, initially, the 2nd party was appointed as a Driver-cum-Peon for three months on contract basis with fixed remuneration, but that contract service was extended up to 20-8-1999. Thereafter appointment of the 2nd Party was extended in a vacant post of the Driver-cum-Peon because there was delay in filling up the said post which was meant for the Scheduled Caste due to some administrative difficulties like verification of police report etc. As the post could not be filled up after 20-8-1999 and the contract service period of the 2nd Party comes to an end, the 1st Party-Management requested one M/s. Akash Travels for deputation of a Driver which was accepted by the said M/s. Akash Travels. The 1st party-Management has further stated that coincidentally the 2nd Party was deputed by the said M/s. Akash Travels. He worked till 1-10-1999 after which one Dileswar Naik again was appointed on contract basis for a period of one month with effect from 4-10-1999 because there was delay in joining of the regular Driver selected by the 1st Party-Management. The post of Driver-cum-Peon has been filled up on 25-1-2000. So, the 1st Party-Management has taken the stand that, the 2nd party has never worked for 240 days under them and even if it is accepted for the argument sake that the period for which he has received payments through M/s. Akash Travels are taken into consideration it would be seen that he has not worked for 240 days. So, according to the 1st Party-Management the 2nd Party is not entitled for the post particularly when the post is meant for the Scheduled Caste and that he has not worked for 240 days in a calendar year preceding his disengagement.

4. On the above pleading of the parties, the following Issues have been settled.

ISSUES

1. Whether the action of the 1st party—Management of SIDBI by terminating the services of Shri Krupasindhu Mahalik, who was appointed on contract basis against a permanent vacancy, is justified?

2. If not, what relief the disputant is entitled to?

5. On behalf of the 2nd party one witness i.e. the 2nd Party himself has been examined and he has exhibited two documents. on the other hand, the 1st Party-Management has examined two witness and has exhibited 14 documents as Ext.-A to Ext.-P.

FINDINGS

ISSUE No. I

6. The grievance of the 2nd Party is that, he has worked for 240 days under the 1st Party-Management in

the post of Driver-cum-Peon. On the other hand, the 1st Party-Management has taken the stand that the 2nd Party has never worked for 240 days under them. The 1st Party-Management has admitted that, the 2nd Party had worked under them till 20-8-1999. Thereafter he was deputed by one M/s. Akash Travels and the 2nd Party worked as Driver under M/s. Akash Travels till 1st October 1999. They have taken the stand that once the contract period of the 2nd Party comes to an end he can not claim for the post because that was the condition while the work order was issued to him and the period for which he has worked being deputed by M/s. Akash Travels can not be taken into consideration to see whether he had worked for 240 days or more. When the 2nd Party has claimed that, he has worked for more than 240 days under the 1st Party-Management and has received the payment and the 1st Party-Management has disputed to it now the entire burden shifts to the 2nd Party to prove that he had worked for more than 240 days and has received the payment from the 1st Party-Management for those period. To establish this he is to prove the letter of engagement/appointment and vouchers under which he has received the payments. In this connection, the case of the *Range Forest Officer-Versus-S.T. Hadimani*, reported in JT 2002 (2) SC 238 may kindly be referred to. So, this Tribunal is required to see whether the 2nd party has succeeded in proving this fact.

7. Admittedly, the appointment letter has been issued to the 2nd Party, which has been exhibited in this case as Ext.-1. That has not been disputed by both the parties. This Ext.-1 reveals that, the appointment was purely on contract basis for three months i.e. from 11-2-1999 to 7-5-1999. The 2nd Party also in his Claim Statement has admitted to have appointed on contract basis for three months, but he has stated he worked till 15-10-1999. There are no other documents filed on behalf of the 2nd Party to satisfy the Tribunal that his contract period was extended up to 15-10-1999. The 1st Party-Management has admitted that after the first contract period was over the contract period of the 2nd Party again was extended up to 20-8-1999 keeping in view the delay in the recruitment procedure for the post of Driver-cum-Peon, but no such documents are available on behalf of the 1st Party-Management. But when they have admitted that they have extended the contract period of the 2nd Party till 20-8-1999; I am not inclined to search for any authentic evidence in view of the admission of the 1st Party-Management. So, I can safely come to the conclusion there is no controversy regarding engagement of the 2nd Party as Driver-cum-Peon from 9-2-1999 to 20-8-1999. The disputed period starts from that date i.e. from 20-8-1999. The 2nd Party has claimed that he has worked till 15-10-1999 whereas the 1st Party-Management have denied. The 1st Party-Management have taken the stand that after 20-8-1999 the 2nd Party had worked for them till 1-10-1999 being deputed by one Travelers namely M/s. Akash Travels who was requested by the 1st Party-

Management to depute a Driver. Documents have been filed on behalf of the 1st Party-Management that correspondance was made to M/s. Akash Travels for deputation of a Driver and interestingly the 2nd Party was deputed by M/s. Akash Travels, but none of the officers from M/s. Akash Travels have been examined in this case by the 1st Party-Management. Ordinarily, the examination of M/s. Akash Travels is not necessary in view of the observation made by the Hon'ble Apex Court that the 2nd Party is required to establish his case, but when the 2nd Party has taken the stand that he has never been deputed by M/s. Akash Travels and the paper transaction was only an eye wash to avoid his claim it would have been better for the 1st Party-Management to either produce one witness from M/s. Akash Travels or could have requested the Tribunal to summon any officers of M/s. Akash Travels who should have placed all the cards before the Tribunal to the effect that the 2nd Party was a Driver working under them and that he deputed him on the request of the 1st Party-Management because he had gained some experience while working under the 1st Party-Management. But that material is not available before the Tribunal. It is improbable to think that when a request was made by the 1st Party-Management to M/s. Akash Travels, he deputed the 2nd Party but none else. Ordinarily the Travelers do not have any stopgap driver to depute on the request of the parties. So, I agree with the submission made on behalf of the 2nd Party that paper transaction made to show that, he had worked for the 1st Party-Management being deputed by M/s. Akash Travels and it is a sham transaction in order to avoid the claim of the 2nd Party. It is submitted on behalf of the 1st Party-Management that even if the Tribunal does not accept the contention that the 2nd Party had worked being deputed by M/s. Akash Travels and the period he had worked are taken into consideration then it would be seen that the 2nd Party had not worked for 240 days. This position has not been disputed. If the Tribunal comes to the conclusion that the 2nd Party had worked from 11-2-1999 to 1-10-1999 (counted in presence of both the parties) it would be seen that the 2nd Party has not worked for 240 days.

8. The next question comes whether the submission made on behalf of the 2nd Party that he had worked till 15-10-1999 is correct. If that is taken into consideration, then it would be seen that he had worked for 240 days. As I have stated earlier that, no documents have been exhibited on behalf of the 2nd Party like payment vouchers to show that he had received the payment till 15-10-1999. While preparing the Award it is found that, one of the slips issued by the Petrol Pump (Trupti Service Station) reveals that, the 2nd Party had signed on 4-10-1999. Basing on this it is submitted on behalf of the 2nd Party that as he had worked upto 15-10-1999, so he had gone to the Petrol Pump on 4-10-1999 and that would suggest that, he had worked till 15-10-1999. No other papers are available except that

Petrol Slip to disclose that the 2nd Party had worked up to 15-10-1999. During course of hearing of argument a question was put to the 1st Party-Management to explain the circumstances under which the signature of the 2nd Party appears on the slip of the Petrol Pump on 4-10-1999. At the outset the 1st Party-Management took the stand that this document can not be taken into consideration as the original has not been called for nor it has been exhibited. The second submission is that a new Driver namely, Shri Dileswar Naik was appointed on 4-10-1999 and it may be so happened that the 2nd Party may have gone to the Petrol Pump to introduce to the new Driver. Admittedly, the 2nd October was a holiday. I do not find any compelling reasons to disbelieve this submission made on behalf of the 1st Party-Management. I have already stated that, the 2nd Party has failed to produce any authenticated documents to satisfy the Tribunal that he had worked for 240 days under the 1st Party-Management. Even if these three days i.e. 2nd, 3rd and 4th are taken into consideration, the total number of period is not coming to 240 days. Once, the 2nd Party has failed to satisfy that he had worked for 240 days he can not claim for the post and it can not be said that refusal to engage the 2nd Party amounts to retrenchment and it is illegal because procedure has not been followed. The 1st Party-Management has placed reliance in the case of *Escorts Limited-Versus-Presiding Officer and Another* reported in 1997 LLR 699, in the case of *Anil Bapurao Kanase-Versus-Krishna Sahakari Shakar Karkhana Ltd. & Another* reported in 1997 LLR 701, in the case of *State of Rajasthan and others -Versus-Rameshwar Lal Gahlot*, reported in 1996 LLR 482 and in the case of *Sub-Divisional Inspector of Post, Vaikam and Others,-Versus-Theyyam Joseph* etc. reported in 1996 LLR 483 to support their contention that the 2nd Party having appointed for a fixed period, having not been worked for 240 days and having not been coming through due process of interview is not entitled for the post which is meant for the Scheduled Caste and his disengagement would not come under the definition of retrenchment. I am not inclined to give any opinion on the observation made by their Lordships in the above reported cases. I have already come to the conclusion that the 2nd Party had failed to prove that he had worked for 240 days under the 1st Party-Management and so that his disengagement would not come under the definition of retrenchment as per the provisions of the Industrial Disputes Act and he is not entitled for the post. Hence, this Issue is answered accordingly.

ISSUE No. II

9. In view of my findings recorded in respect of Issue No. I the 2nd Party is not entitled for any relief.

10. Reference is answered accordingly.

Dictated & corrected by me.

S. K. DHAL, Presiding Officer

ANNEXURE

BEFORE THE C.G.I.T.-CUM-LABOUR COURT:
BHUBANESWAR

I.D. Case No. 83/2001

List of the Witnesses Examined on behalf of the 2nd Party-Workman.

W.W. No. 1. Shri Krupasindhu Mahalik (the 2nd Party-Workman).

List of the Witnesses Examined on behalf of the 1st Party-Management.

M.W. No. 1. Shri Bhawarlal Chandak, Dy. General Manager.

M.W. No. 2. Shri T.H.R. Samad, Asstt. General Manager.

List of Documents exhibited on behalf of the 2nd Party-Workman.

Ext-1. Copy of the Appointment order No. 2698/Per-003 dated 10-2-1999 of Small Industries Development Bank of India, Bhubaneswar.

Ext-2. Car Log Book—Car No. OR-02-D-3344 (7 sheets)

List of Documents exhibited on behalf of the 1st Party-Management.

Ext-A. Letter of the Manager, addressed to the Employment Exchange, Barmunda, Bhubaneswar, dated 22-12-1997.

Ext-B. Letter No. 627/SEE, dated 2-5-1998 addressed to the A.G.M. by the Employment Officer, SEE for SC & ST, BBSR-List of candidates for the Post of Driver-cum-Peon.

Ext-C. Letter No. 2429, dated 5-1-1999 of A.G.M. to the Motor Vehicle Inspector, RTO, Bhubaneswar—Skill Test and Interview.

Ext-D. Fax Message regarding approval to engage a Driver-cum-Peon on contract basis.

Ext-E. Copy of the application dated 9-2-1999 of Shri Krupasindhu Mahalik to the General Manager, SIDBI, Bhubaneswar.

Ext-F. Copy of the appointment letter, dated 10-2-1999 of General Manager, SIDBI, Bhubaneswar, issued to Shri Krupasindhu Mahalik.

Ext-G. Letter No. 604, dated 1-7-1999, of D.G.M. addressed to the Superintendent of Police, Laxmisagar P.S. BBSR for verification of character antecedents.

Ext-H. Letter No. 1056/Rect. Dated 28-9-1999 of A.G.M. addressed to the Medical Officer, for medical examination of Shri Binod Bag.

Ext-J. Letter, dated 18-8-1999 of Akash Travels to the General Manager, SIDBI, Bhubaneswar, for providing Driver-cum-Peon.

Ext-K. Letter of M/s. Akash Travels deputing Shri Krupasindhu Mahalik.

Ext-L. Bill of M/s. Akash Travels dated 23-9-1999 submitted to the SIDBI.

Ext-M. Bill of M/s. Akash Travels, dated 4-10-1999 submitted to the SIDBI.

Ext-N. Letter No. 1459, dated 22-12-1999 of D.G.M. SIDBI, BBSR, to ALC (C), Bhubaneswar.

Ext-P. Letter No. 286, dated 23-5-2000 of D.G.M., SIDBI, Bhubaneswar, addressed to the ALC(C), Bhubaneswar.

नई दिल्ली, 24 जनवरी, 2003

का. आ. 581.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, पश्चिम रेलवे के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अजमेर के पंचाट (संदर्भ संख्या सी.आई.टी.आर. 016/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-01-2003 को प्राप्त हुआ था।

[सं. एल-41012/145/99-आई.आर.(बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 24th January, 2003

S.O. 581.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. CITR-016/99) of the Industrial Tribunal, Ajmer now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Western Railway and their workman, which was received by the Central Government on 23-01-03.

[No. L-41012/145/99-IR(B-I)]
AJAY KUMAR, Desk Officer

अनुबंध

न्यायालय श्रम एवं औद्योगिक न्यायाधिकरण, अजमेर (राज.)

पीठासीन अधिकारी, राजेन्द्र सिंह राठौड़, आर. एच. जे. एस.

सी. आई. टी. आर. 016/99

(रेफरेंस नं. एल-41012/145/99/आई. आर. (बी.1))

दिनांक 30-8-1999)

श्री राजेन्द्र कुमार पुत्र श्री नंदलाल द्वारा अध्यक्ष हिंद मजदूर सभा,
624/24 "सी" जादम भवन, नारीशाला रोड, शक्तिनगर, अजमेर

... प्रार्थी

बनाम

मंडल रेल प्रबंधक, अजमेर पश्चिम रेलवे, अजमेर ... अप्रार्थी
उपस्थित :

श्री शोभित पंत, विद्वान अधिवक्ता, ... प्रार्थी

श्रीमति गुरमीत कौर, विद्वान अधिवक्ता, ... अप्रार्थी

दिनांक 28-11-2002

अवार्ड

1. केंद्र सरकार के श्रम मंत्रालय ने निम्नांकित विवाद न्यायनिर्णयन हेतु प्रेषित किया है :—

“आया पश्चिम रेलवे, अजमेर के डिवीजन रेलवे मैनेजर द्वारा श्री राजेन्द्र कुमार पुत्र नंदलाल पूर्व सफाई कर्मी को 5-3-93 से सेवामुक्त करना वैधानिक एवं औचित्यपूर्ण है ? यदि नहीं तो श्रमिक किस राहत को पाने का अधिकारी है ?

2. प्रार्थी श्रमिक ने स्टेटमेंट ऑफ क्लेम में बताया है कि : वर्ष 1978 से लगातार सफाई कर्मी की हैसियत से विपक्षी के यहां कार्यरत रहा तथा 5-2-93 को विपक्षी ने उसे सेवामुक्त कर दिया। उस समय उसका वेतन रु. 750 प्रतिमाह था। दि. 10-1-92 को नियोजक प्रतिनिधि सहायक वाणिज्य अधीक्षक श्री प्रदीप कुमार द्वारा उसे बिना कोई कारण बताये निलंबित कर दिया गया। कारण जानने पर केवल मात्र ड्यूटी पर से अनुपस्थित रहना ही एकमात्र कारण बताया। प्रार्थी पारिवारिक परेशानियों व वृद्ध पिता की अस्वस्थता की वजह से कार्य से एक दो दिन का अवकाश लेता रहा था जिसकी सूचना भी वह अपने अधिकारी को देता था। दि. 10-2-92 को उसका निलंबन निरस्त कर पुनः नौकरी पर आने का आदेश दिया गया जिसकी श्रमिक ने पालना की। दि. 11-2-92 को एक आरोप पत्र पुनः थमा दिया गया जिसमें प्रार्थी के विरुद्ध जनवरी 90 से जनवरी 92 तक भिन्न-भिन्न दिनों में लंबी अवधि तक अनुपस्थित रहने का आरोप लगाया गया। इसके उपरांत 25-2-92 को पुनः एक आदेश जारी कर प्रार्थी को 10-1-92 से ही निलंबित कर दिया गया।

दि. 13-3-92 को प्रार्थी के विरुद्ध एक जांच कमेटी का गठन किया गया परंतु जांच अधिकारी वरिष्ठ लिपिक आर. सी. शर्मा को नियुक्त किया जो आरोप लगाने वाले अधिकारी के मातहत ही कार्यरत थे। दि. 18-4-92 को प्रारंभिक जांच शुरू हुई जिसकी रिपोर्ट 28-12-92 को जांच अधिकारी ने प्रस्तुत करी व इस रिपोर्ट के आधार पर 5-2-93 को प्रार्थी को सेवा से पृथक कर दिया गया। प्रार्थी ने लगाये गये आरोपों को तो नकारा परंतु परिस्थितिवश समझौता करते हुए उसने क्षमायाचना भी की व भविष्य में अनुपस्थित न रहने का आश्वासन दिया। प्रार्थी का कृत्य सेवा समाप्ति जैसे कठोर एवं अंतिम दंड तक उचित नहीं है क्योंकि उसकी गैर हाजरी स्वैच्छिक नहीं होकर विपरीत

परिस्थितियों के कारण हुई थी, प्रार्थी ने विभागीय उच्च अधिकारियों के समक्ष अपील भी प्रस्तुत की जहां से 24-7-97 के पते द्वारा अपील खारिज कर दी गयी इस पर प्रार्थी ने समझौता अधिकारी के समक्ष विवाद उठाया परंतु कोई हल न निकलने के कारण असफल वार्ता प्रतिवेदन केंद्र सरकार को प्रेषित किया जहां से मौजूदा रेफरेंस इस न्यायालय को भेजा गया।

प्रार्थी ने अपनी सेवामुक्ति को निम्नांकित आधारों पर निरस्त किये जाने योग्य बताया है :—

(1) प्रार्थी संस्थान का स्थाई कर्मचारी था व पंद्रह वर्षों की लंबी अवधि तक सेवा में रहा।

(2) पारिवारिक परिस्थितिवश विभिन्न अवधियों में सूचित करने के उपरांत अनुपस्थित रहा तथा अनुपस्थिति लगातार न होकर दो वर्षों की लंबी अवधि से अलग-अलग समय की है।

(3) अल्पावधि की आवश्यक अवकाश अवधि को गैर हाजरी करार देकर सेवामुक्त किया जाना पूर्णतया अवैध, असंवैधानिक व अनुचित है।

(4) जांच के दौरान श्रमिक को पूर्ण सुनवाई का अवसर न देकर, अनुपयुक्त अधिकारी को जांच अधिकारी बनाकर एवं त्रुटिपूर्ण जांच कर दंडित करना अनैतिक है।

(5) यदि यह भी मान लिया जाये कि श्रमिक अनुपस्थित रहा तब भी उक्त कृत्य इतना भारी अपराध या त्रुटि नहीं है जिसके लिए सेवामुक्ति जैसे वृहद दंड से दंडित किया जावे।

प्रार्थी की मांग है कि उसकी सेवामुक्ति को अवैध अनुचित ठहराते हुए सेवामुक्ति दिनांक से ही सेवा में निरंतरता रखते हुए समस्त पूर्व वेतन लाभ सहित बहाल करने का अवार्ड के पक्ष में पारित किया जावे। प्रार्थी ने अपना शपथ पत्र प्रस्तुत किया है जिस पर विपक्षी द्वारा जिरह की गई है। प्रार्थी द्वारा प्रदर्श डब.1 लगाया। डब.4 दस्तावेज भी प्रदर्शित किये गये हैं।

3. अप्रार्थी की ओर से जवाब पेश कर बताया गया कि जनवरी 90 से 92 तक अनाधिकृत रूप से समय पर अनुपस्थित रहने पर रेल सेवक (अनुशासन व अपील) नियम 1968 के तहत अनुशासनात्मक कार्यवाही की गयी। प्रार्थी छुट्टियों का उपयोग उपभोग करने के बाद भी अपनी ड्यूटी से अनाधिकृत रूप से अनुपस्थित रहने का आदी हो गया था। प्रार्थी को 10-1-92 को सर्वप्रथम निलंबित किया जिस आदेश को 10-2-92 को रिवोक कर दिया गया तत्पश्चात् 11-2-92 को मानक फार्म स. 5 में अनाधिकृत अनुपस्थिति के आरोप के साथ आरोप पत्र जारी किया गया जो आरोप के विरुद्ध सिद्ध हुआ। प्रार्थी ने जांच अधिकारी की रिपोर्ट पर अपने प्रतिवेदन 16-1-93 में यह स्वीकार किया था कि कुछ पारिवारिक परिस्थितियों के कारण अनजाने में वह अनुपस्थित रहा जिसकी सजा उसे मिल चुकी है क्योंकि पूरी अवधि में उसे तनखाह नहीं मिली व उसने प्रार्थना की कि उसे इस बार माफ कर दिया जावे। प्रार्थी को पुनः 25-2-92 के आदेश द्वारा दि. 10-1-92 से निलंबन कर उसकी सूचना जारी की गयी थी। दि. 13-3-92 को जांच अधिकारी आर.सी. शर्मा जो वाणिज्य निरीक्षक के पद पर थे। को जांच अधिकारी नियुक्त किया गया। जांच 18-4-92 को शुरू होकर 28-12-92 को

समाप्त हुई। अनुशासनिक अधिकारी ने 4-1-93 को जांच रिपोर्ट की प्रति प्रार्थी को दी व पंद्रह दिवस में अभ्यावेदन प्रस्तुत करने के निर्देश दिये इस पर 16-1-93 को प्रार्थी ने अभ्यावेदन पेश कर स्वीकार किया कि वह पारिवारिक परेशानियों व अनजाने में अनुपस्थित रहा था। प्रार्थी को 5-2-93 को सेवा पृथक् कर दिया गया व उसके द्वारा प्रस्तुत अपील भी 21-5-93 को खारिज करते हुए दंड रेल सेवा से हटाया जाता है, को यथावत् रखा। रिवीजन अधिकारी ने भी 28-10-93 के आदेश द्वारा उक्त दंड यथावत् रखा। प्रार्थी की पुनरीक्षण याचिका 21-10-93 को निष्पादित कर दी गयी थी। उसके पश्चात् चार वर्ष तक प्रार्थी निष्क्रिय रहा व दि. 1-3-97 को यूनियन के माध्यम से मर्सी अपील की जिसका निस्तारण भी 24-7-97 को कर दिया गया। इसके पश्चात् भी प्रार्थी पुनः दो वर्ष निष्क्रिय रहा व मार्च 99 में सहायक श्रम आयुक्त के समक्ष प्रार्थना पत्र प्रस्तुत किया व इस प्रकरण में उसने पूर्णतः समयपार अवधि में विवाद प्रस्तुत किया है जो खारिज किया जावे। अप्रार्थी की ओर से श्री भंवरलाल सेन कार्यालय अधीक्षक-2 मंडल कार्यालय, अजमेर द्वारा शपथ पत्र पेश किया गया जिस पर प्रार्थी पक्ष द्वारा जिरह की गयी है। अप्रार्थी की ओर से कुछ दस्तावेज भी पेश हुए हैं परंतु उन्हें साक्ष्य में प्रदर्शित नहीं कराया गया है।

4. बहस अंतिम सुनी गयी, पत्रावली पर उपलब्ध अधिकथन, शपथ पत्रों के अंतर्गत आयी साक्ष्य तथा दस्तावेजों का ध्यानपूर्वक अवलोकन करने पर निम्नांकित विचारणीय बिंदु इस विवाद के न्याय निर्णयन के लिए सुसंगत होने से निर्मित किये गये :—

(1) आया प्रार्थी ने जनवरी 90 से जनवरी 92 की अवधि में विभिन्न समय पर अनाधिकृत रूप से अनुपस्थित रहा तथा क्या प्रार्थी के विरुद्ध अमल में लायी गयी जांच कार्यवाही नियमानुकूल व नैसर्गिक न्याय के सिद्धांतों के अनुरूप थी?

(2) आया प्रार्थी को सेवामुक्त करने का जो दंड है वह उचित है एवं क्या न्यायालय धारा 11ए औद्योगिक विवाद अधि. के अंतर्गत इसमें हस्तक्षेप करने के लिए उचित कारण मानता है अथवा नहीं?

(3) अनुतोप

5. प्रत्येक बिंदु पर हमारा निर्णय निम्नानुसार है :—

बिंदु संख्या-1 : प्रार्थी को जो आरोप पत्र दिया गया उसके अनुसार जनवरी 90 से जनवरी 92 के बीच व 12-2-91, 13-4-91, 7-5-91, 27-5-91 से 29-5-91, 26-6-91, 22-8-91 से 31-8-91, 1-9-91 से 3-9-91, 6-9-91 से 10-9-91, 19-9-91 से 21-9-91, 6-10-91 से 9-10-91, 15-10-91, 17-10-91 व 7-1-91 से 10-1-91 तक अनुपस्थित रहने की बात सामने आती है। प्रार्थी का यद्यपि यह कहना है कि वह सफाई जमादार श्री मिश्रीलाल व लाला गोला को सूचना देकर अवकाश पर जाता रहा था परंतु इस बाबत न तो दोनों जमादारों का कोई शपथपत्र है व न ही रिकार्ड में ऐसा कोई प्रार्थना पत्र उपलब्ध हुआ है जिसके आधार पर यह माना जा सके कि प्रार्थी अवकाश पर रहने की सूचना देने के उपरांत व अवकाश स्वीकृति के बाद अनुपस्थित रहा हो। अतः प्रार्थी का उक्त तर्क मानने योग्य नहीं है।

जहां तक जांच कार्यवाही का प्रश्न है दि. 11-2-92 को मानक फार्म सं. 5 आरोप पत्र दिया गया था। जांच कार्यवाही 18-4-92 को प्रदर्श डब. 1 के तहत अग्रसर की गयी व इस कार्यवाही में प्रश्न सं. 4 के उत्तर में प्रार्थी ने कुछ दस्तावेज चाहे। इससे पूर्व प्रार्थी ने 21-2-92 को प्रदर्श डब. 3 प्रार्थना पत्र के द्वारा अपने प्रतिनिधि जसनलाल चंदानी, सहायक स्टेशन मास्टर सराधना के साथ कुछ दस्तावेजों का अवलोकन करने की अनुमति चाही। दि. 28-12-92 को जांच अधिकारी की रिपोर्ट में यह स्पष्ट हुआ है कि जनवरी 90 से मार्च 92 की अवधि के छुट्टियों व सिक का रिकार्ड उपलब्ध नहीं कराया जा सका था परंतु इससे आरोपों पर कोई प्रभाव नहीं पड़ता था व बाकी शेष दस्तावेज प्रार्थी को उपलब्ध करा दिये गये थे एवं दिखा दिये गये थे। इसके बाद 26-5-92 को विभागीय साक्ष्य श्री के. सी. शर्मा, जैनीटर उपस्थित हुए परंतु मुख्य बयान हो जाने पर छुट्टियों व सिक का रिकार्ड स्टेशन अधीक्षक द्वारा उपलब्ध न कराने पर बचाव प्रतिनिधि द्वारा प्रश्नोत्तर नहीं किये गये। इसके पश्चात् 20-6-92 की कार्यवाही में रिकार्ड दिखला देने के पश्चात् प्रतिनिधि द्वारा श्री के. सी. शर्मा जनेटीर से कोई भी प्रश्नोत्तर करना नहीं चाहा गया दि. 25-10-92 को अपचारी श्रमिक श्री राजेंद्र एन के बयान जांच कार्यवाही में रिकार्ड किये गये इस कार्यवाही के प्रश्न सं. 12 के जवाब में भी प्रार्थी ने बताया कि प्रशासन द्वारा उसके द्वारा चाही गयी सभी सुविधायें दी गयी थीं एवं उसे अब अन्य कोई सुविधा नहीं चाही है। दि. 16-1-93 को प्रार्थी द्वारा अभ्यावेदन पेश कर यह बताया गया कि यद्यपि जनवरी 90 से जनवरी 91 की अवधि तक के छुट्टियों व सिक का रिकार्ड उपलब्ध नहीं कराया गया परंतु इससे लगाये गये आरोपों पर कोई प्रभाव नहीं पड़ता है ऐसी परिस्थिति में जांच कार्यवाही के अंतर्गत प्रार्थी को न केवल बचाव का अवसर दिया गया अपितु उसके द्वारा वांछित दस्तावेज न केवल दिखा दिये गये अपितु उपलब्ध भी करा दिये गये। प्रार्थी को नैसर्गिक न्याय के सिद्धांतों के अनुरूप अपने बचाव का अवसर दिया गया ऐसा तथ्य जांच कार्यवाही की रिपोर्ट के अवलोकन से तथा प्रार्थी के स्वयं के बयान 25-10-92 के अनुसार मिलता है।

अतः बिंदु सं. 1 का निस्तारण उपर्युक्तानुसार किया जाता है।

बिंदु संख्या 2 :— प्रार्थी की सेवामुक्ति का जो आधार दिया गया है उसमें जनवरी 90 से जनवरी 92 के बीच विभिन्न तारीखों पर व अवधियों के लिए अनाधिकृत अनुपस्थित हो जाने बताया गया है साथ ही प्रार्थी के द्वारा 25-10-92 को प्रश्न सं. 10 के उत्तर में जो यह बात स्वीकार की गयी है कि अनाधिकृत रूप से वह सदैव अनुपस्थित नहीं रहा था बल्कि कुछ अवधियों में अनाधिकृत रूप से अनुपस्थित रहने का कारण उसकी अज्ञानता है जिसके लिये वह शर्मिदा है को तथा दि. 16-1-93 के अभ्यावेदन में प्रार्थी द्वारा अपनी पारिवारिक परेशानी के कारण अनजाने में अनुपस्थित रहने तथा उसकी तनखाह नहीं मिलने व इस प्रकार सजा भुगत लेने का तथ्य अंकित होने आदि को सेवामुक्ति का मुख्य आधार बनाया गया है। यहां यह लिखना सुसंगत होगा कि प्रार्थी कोई लंबी अवधि तक गैर-हाजिर नहीं रहा था बल्कि एक दिवस से लगातार तीन दिवस तक ही गैर-हाजिर एक बार में इस पूरी अवधि में रहा है। हमारे समक्ष मंडल कार्यालय अजमेर का परिपत्र पेश हुआ है जिसमें लंबे समय से ड्यूटी से अनुपस्थित कर्मचारियों के प्रकरणों में डी. ए. आर. एक्शन शुरू करने बाबत महाप्रबंधक (स्था.) चर्चगेट,

मुंबई के पत्र सं. ई/डी. ए. आर./308/0 भाग-रोमन आठ दि. (अस्पष्ट) 2001 (पी. एस. सं. 52/2000) की प्रति सूचना मार्गदर्शन हेतु प्रेषित की गयी है। उक्त परिपत्र में बताया गया है कि सात दिवस से अधिक अनाधिकृत अनुपस्थिति पर नियंत्रण अधिकारी कर्मचारी को रजि. ए. डी. द्वारा सूचना भेजेगा व निर्देश देगा कि वह ड्यूटी पर अविलंब उपस्थित होवे व साथ ही इस की वार्निंग देगा कि अनुपस्थित रहने पर डी. ए. आर. एक्शन उसके खिलाफ प्रारंभ कर दिया जावे। इसके बावजूद यदि कर्मचारी चौदह दिन की अवधि में ड्यूटी ज्वाइन नहीं करता है तो पुनः उसे स्मरण पत्र भेजने के उपरांत डी. ए. आर. एक्शन प्रारंभ किया जावे, इसके बावजूद यदि वह ड्यूटी पर नहीं आता है तो माइनर पैनल्टी के चार्जज लगाये जाकर उसे आरोप पत्र दिया जावेगा। माइनर पैनल्टी हो जाने पर भी यदि कर्मचारी तीन माह तक अनुपस्थित हो जावे तो पुनः दो तीन पत्र जारी करने के बाद नियंत्रण अधिकारी मेजर पैनल्टी के चार्जज फ्रेम करेंगे। मौजूदा प्रकरण में उपरोक्त दिशा-निर्देशों की पालना की जाना प्रतीत नहीं होती है क्योंकि सीधे ही दिनांक 11-2-92 को मेजर पैनल्टी के अंतर्गत जांच कार्यवाही प्रारंभ कर दी गयी। इससे पूर्व रजि. ए. डी. द्वारा पत्र भेजा जाना भी प्रकट नहीं हुआ है। साथ ही मौजूदा प्रार्थी सात दिवस से कम अवधि तक ही अनाधिकृत अनुपस्थित रहा है अतः उसे सीधे ही मेजर पैनल्टी के चार्जज लगाकर सेवामुक्ति कर देना तथा बगैर इस तथ्य पर गौर किये कि प्रार्थी कि एक बार की कभी भी एक से तीन चार दिन से अधिक अनुपस्थिति नहीं रही है उसे सेवा तक से मुक्त कर देना अपने आप में न केवल कठोरतम दंड है अपितु चार्जज की प्रकृति के समतुल्य भी नहीं है। प्रार्थी ने निरंतर पंद्रह वर्ष की सेवा रेल मंडल कार्यालय में पूरी की है तथा उसके अवधार को अत्यधिक कठोरता से दंडित करना किसी भी मायने में सही नहीं माना जा सकता। माननीय सर्वोच्च न्यायालय ने (1) 2001 एल. एल. आर. 54 मैसर्स स्कूटर्स इंडिया लि./मौ. याकूब (2) ए. आई. आर. 1984 एस. सी. 976 जितेंद्र सिंह/श्री बैद्यनाथ आयुर्वेद भवन लि. (3) 1995 (3) एल. एल. जे. (एस. सी.) सप्ली 463 बलदेव सिंह/लेबर कोर्ट (4) 1995 (2) एल. एल. एन. 381 एन. मोहन दास/सदर्न इंड. पॉलीमर्स प्राइवेट लि. तथा माननीय राज. उच्च न्यायालय ने (1) 2001 (2) डब. एल. सी. (राज.) 317 दी पंजाब नेशनल बैंक/दी सेंट्रल गवर्नमेंट इंड. ट्रिब्यूनल जयपुर व अन्य (2) आर. एल. आर. 2000 (3) घनश्याम शर्मा/रीजनल मैनेजर आर. एस. आर. टी. सी., कोटा (4) आर. एल. आर. 1996 (2) 337 शंकरलाल शर्मा/राज. राज्य व अन्य के विनिश्चयों में धारा 11ए औद्योगिक विवाद अधि. के प्रावधानों का विस्तृत विवेचन करते हुए यह निर्धारित किया है कि श्रम न्यायालय को प्रशासनिक अधिकारी के द्वारा पारित किये गये दंडादेश को तब्दील करने का प्रत्येक अधिकार निहित है। मौजूदा मामले में हम इस नतीजे पर पहुंच चुके हैं कि पारित किया गया दंडादेश दि. 5-3-93 प्रार्थी पर लगाये गये आरोपों की प्रकृति को देखते हुए तथा पत्रावली पर उभरे तथ्यों के मद्देनजर अत्यधिक कठोर व “हार्श” है तथा उक्त दंडादेश को तब्दील किया जाना न्याय हित में है।

मौजूदा मामले में सेवामुक्ति आदेश 5-3-93 को अपास्त किया जाकर प्रार्थी के दो वार्षिक वेतन वृद्धियों को असंचयी प्रभाव से रोके जाने का दंडादेश धारा 11ए औद्योगिक विवाद अधि. में निहित शक्तियों के

अंतर्गत पारित किया जाता है। प्रार्थी को 5-3-93 से ही सेवा में पुनः बहाल किया जाता है तथा सेवा में पुनः वास्तविक ज्वाइनिंग तक तथा 5-3-93 के बीच की अवधि में पचास प्रतिशत पूर्व वेतन दिलाये जाने का आदेश दिया जाता है। प्रार्थी की सेवा की निरंतरता कायम रखी जाती है।

अतः बिंदु सं. 2 का निस्तारण प्रार्थी के हक में उपर्युक्तानुसार किया जाता है।

आदेश

बिंदु संख्या 3 (अनुतोष) :—अप्रार्थी के सेवामुक्ति आदेश दि. 5-3-93 को उपरोक्तानुसार अपास्त किया जाता है। (2) प्रार्थी के दो वार्षिक वेतन वृद्धियों को असंचयी प्रभाव से रोके जाने का आदेश भी धारा 11ए औद्योगिक विवाद अधि. में निहित शक्तियों के अंतर्गत किया जाता है। (3) प्रार्थी को दि. 5-3-93 से ही सेवा में पुनः बहाल किया जाकर वास्तविक ज्वाइनिंग की तिथि से सेवामुक्ति दि. 5-3-93 के बीच की अवधि का पचास प्रतिशत पूर्व वेतन दिलाये जाने का अधिकारी पाया जाता है।

राजेन्द्र सिंह राठौड़, न्यायाधीश

नई दिल्ली, 28 जनवरी, 2003

का. आ. 582.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, को. बैंक ऑफ अहमदाबाद लि. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1, मुम्बई के पंचाट (संदर्भ संख्या सी.जी.आई.टी. 22/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-01-2003 को प्राप्त हुआ था।

[सं. एल-12012/52/95-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th January, 2003

S.O. 582.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. CGIT-22 of 1997) of the Central Government Industrial Tribunal No. 1, Mumbai now as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of Co-operative Bank of Ahmedabad Ltd. and their workman, which was received by the Central Government on 27-01-2003.

[No. L-12012/52/95-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT:

Shri Justice C. V. GOVARDHAN, Presiding Officer

REFERENCE NO. CGIT-22 OF 1997

PARTIES :

Employers in relation to the management of Co-op.
Bank of Ahmedabad Ltd., Bombay.

AND

Their Workmen.

APPEARANCES :

For the Management : Shri Paranjpe, Advocate.

For the Workman : Shri V. P. Vaidya, Advocate

State : Maharashtra

Mumbai, dated the 5th day of November, 1999

AWARD**PART-I**

The Central Govt. by its order dt. 25-4-97 has referred the following dispute between the Management of Co-op. Bank of Ahmedabad Ltd. and their workman for adjudication by this Tribunal.

“Whether the action of the management of Co-operative Bank of Ahmedabad Ltd. in terminating the services of Shri Praful D. Ved is legal and justified ? If not, to what relief is the workman entitled ?”

2. The averments in the claim statement are briefly as follows :

The workman was initially employed in the Co-op. Bank as a Clerk. On 2-1-82 subsequent to promotions he was working as Chief Cashier at the time of his termination. As a Chief Cashier his duty was to prepare cash denomination statement and cash summary register. He has also to accompany the Accountant and other staff of the Bank to open the safe deposit vault. The distribution of the cash to the Paying Cashiers is always done by the Watchman and the workman was only to prepare the cash denominations slips of the previous dates of the cash summary. From 20-5-89 till 6th June, he was assigned the duty of other Officers on leave. Mr. Praful Doshi, was assigned the duty of Chief Cashier. Mr. Praful Trivedi was assigned the duty of Physical verification of cash as on 6-6-89. When the workman received the charge of cash from the paying cashiers at the closing hours on 7-6-89, Mr. Dollar Acharya one of the Paying Cashiers informed him that there was a shortage of Rs. 50,000/- consisting of 100 notes of 500 rupees denomination. The workman enquired about the said shortage with him and informed it to the Accountant of the Bank and also the Senior Manager about the same. As per their instruction a thorough check was carried out in the drawers of the Paying Cashiers; but the amount could not be found. Physical checking of the staff was not done. The Sr. Manager directed the workman in the cash department to the police station and there he gave a written complaint mentioning the names of all the staff in the cash department. The police took finger prints

of the staff including the workman and interrogation was also done. The Sr. Manager had allowed Mr. Dollar Acharya the concerned paying cashier and also the Watchman Mr. P. N. Singh who distributed the cash to the paying cashiers to leave the premises of the Bank before going to the police station. The cash summary book of the previous day was prepared by Mr. Praful Doshi who was on assignment as Chief Cashier for about 15 days including 6th June 1989. Physical verification of the cash was not done in the morning as there used to be heavy rush of customers. On 7-6-89 while the workman was preparing the cash denomination slip he was informed by one of the staff members that there was a phone call for him and therefore, he had gone to the ground floor of the Bank to attend the said phone. He had left the key of the cash box with the Bank's cashier, Mr. Dollar Acharya at that time. From 8-6-89 he was given different assignments.

3. The Senior Manager informed the staff that he has kept a empty wooden box in the Bank and asked the staff that whoever has taken the amount of Rs. 50,000 would put the same in the same wooden box so that the said person could escape from the consequences, thereof. The wooden box was first kept in the Second floor. Later, it was kept in the bathroom in the ground floor. The names of staff members visiting the place where the box was kept were noted. The workman did not go to the said place and it is known to all the staff members. On 12-6-89, the Sr. Manager declared that he had discovered the lost cash in the wooden box but he did not inform the same to the Police. The Sr. Manager informed the staff members that only Rs. 46,000 was found and Rs. 4,000 is still short and the staff members contributed the said shortage of Rs. 4,000 as suggested by the Sr. Manager. The keys of all the lockers and drawers of the bank are with the Accountant and the Sr. Manager and therefore, the Senior Manager could have been a party to the missing of the amount. It is strengthened by the fact that he had kept a wooden box in the first floor initially and then in the bathroom of the ground floor. Subsequently, he claimed that he has discovered the cash. Despite the lapses on the part of the Sr. Manager, the workman was suspended on 7-7-89. He was served with charge sheet. The enquiry was held and on receipt of the finding of the Enquiry Officer, the workman was dismissed from service. The enquiry held against the workman was not in accordance with the principles of natural justice. Chargesheet was issued by the Sr. Manager and he had also acted as the witness in the enquiry. He has also issued the dismissal order of the workman. The enquiry is therefore, vitiated. It is vitiated on the ground that no subsistence allowance was paid to the workman and no increment was given to the workman. The Enquiry Officer has not considered the written submission made by the workman. His report is one sided and perverse. The workman was directed to present himself before the Board of Directors at Ahmedabad to show cause as to why his services should

not be terminated on the basis of the enquiry report. The workman submitted the actual facts to the Board of Directors. He was served with termination order signed by the Sr. Manager. It was stated that before taking action against the workman, the Bank has taken into account his past record but his past records is clean and unblemished. The workman has not committed any misconduct as alleged by the Bank. The enquiry is not fair and proper. The findings are perverse. Even assuming that the charges are proved the punishment meted out to the workmen is shockingly disproportionate to his unblemished service records. Therefore, the workman prays that the action of the management in terminating the service of the workman may be set aside and the workman may be reinstated with back wages and full benefits.

4. The management in their written statement contends as follows :

The workman was working in the Bank as a Chief Cashier. On 7-6-89, he opened the Cash box and handed over the cash to Mr. Dollar Acharya and Mr. Dinesh Rana, the Paying Cashier. In the evening, it was found that a sum of Rs. 50,000 was missing in the cash given back to the workman by Mr. Acharya. It was reported to the Bank by the workman. On 7-7-89, the workman was suspended. He refused to accept the same. It was therefore sent by registered post. It was returned. Therefore, a telegram was sent to the workman. The workman was charge sheeted for misconducts of dishonesty in connection with the business/property or affairs of the Bank, misappropriation of cash Commission of acts subversive of discipline, Gross negligence and refusal to accept the lawful order issued by the management. An enquiry was held in which the workman participated along with one advocate of his choice. It was conducted in accordance with the principles of natural justice. The Enquiry Officer gave a finding holding that the charges against the workman have been proved. After perusing the findings and the enquiry papers, the Authority concurred with the findings of the Enquiry Officer. The Board of Directors had decided to impose the punishment of dismissal on the second party workman. He was given an opportunity to submit his say in the matter. His services were terminated on 1-12-90. The workman filed a writ petition in the Bombay High Court. It was dismissed. The workman was dismissed by way of disciplinary action for the acts of misconduct committed by him. The service of the workman was terminated after holding a fair and proper enquiry giving all opportunities to the workman to defend himself and in accordance with the principle of natural justice. In case the tribunal comes to the conclusion that the enquiry is vitiated an opportunity may be given to the management to prove the charge against the workman before this tribunal.

It is false to say that distribution of cash to the Paying Cashier is done by the watchman. The watchman on duty is required to see whether the Cash cabin is locked properly

or not. The workman was required to prepare two separate cash denomination slips of two paying cashiers on the basis of the previous day summary books and the bank submits that the staff are required to do work of other staff members who remain absent but they are not required to do his own the same day. On 6-6-89 the workman was discharging the duties of Chief Cashier and he took charge of the Cash of the Chief Cashier at about 5.30 p.m. on that day he also gave it in writing the cash balance in the books of accounts. He had taken charge of the keys and closed the cash box at 6.00 P.M. He had signed the key register for the day as authorised to sign the same in his capacity as Chief Cashier. On receipt of the information of the shortage the drawers of the Paying Cashiers were checked, the Deposit was never checked. The Bank had no authority to make physical verification of the staff when there is a shortage of cash. It is false to say that Mr. Acharya and Mr. P.S. Singh were allowed to leave the premises of the Bank. It is true that wooden box was kept and an announcement was made asking all the staff members including the workman. When Rs. 46,000 was found it was reported to the police also. Finger prints could not be taken because the said wooden box contained grass and other articles. The wooden box was opened in front of all the staff members including the workman. The staff members showed their willingness to share the shortage of Rs. 4000 and it was informed to the Sr. Manager. He accepted the same subject to the approval of the Directors. The allegation that there was no shortage has no meaning at all. The enquiry was conducted properly, the workman participated in the same and he was terminated from service on the proved misconduct considering his past record of service. Therefore, the reference is to be dismissed. The workman has filed a rejoinder reiterating his earlier stand in the Claim Statement. On the above pleadings the following Issues were framed.

1. Whether the enquiry held against the workman is fair and proper ?
2. Whether the Bank has committed discrimination against the workman ?
3. Whether the findings are perverse ?
4. Whether the punishment is shockingly disproportionate ?
5. Whether the workman is entitled to reinstatement with full backwages and continuity of services ?
6. What award ?

At present, the learned advocates have restricted their arguments only with regard to the Issue Nos. 1 and 3 in order to find out whether the enquiry held against the workman is fair and proper and whether the findings of the Enquiry Officer is perverse ?

Issue Nos. 1 and 3 : The workman in his written argument has contended that the chargesheet reads that

he had aided, connived and attempted to commit theft of etc. and the Enquiry Officer has stated in his report that the said charge is proved. It is also stated that no case whatsoever was proved before the Enquiry Officer in respect of the allegation of gross negligence involving loss to the Bank. It is stated that on account of the finding of Rs. 46,000 in the wooden box and the contribution of Rs. 4000 by the other staff, the entire amount which was missing was made available to the Bank and therefore, it cannot be stated that there was no loss. But this argument of the workman is without merits since recovery of the entire amount, part of it being contributed by the entire staff cannot lead us to the inference that there was no loss to the Bank.

It is the specific case of the workman that on 7-6-89 he did not verify physically the amount available and he had only acted upon the denomination statement given by the Chief Cashier on 6th June 1989. But this version of the workman is denied by the management to contend that the workman opened the cash box and handed over the cash to Mr. Dollar Acharya and Mr. Dinesh Rana paying cashiers. The version of the workman that it was only the watchman who actually delivered the cash to the concerned paying cashiers does not appear to be a proper or genuine one since the duty of the Cashier is to prepare the denomination slip only after accounting and availability of the cash cannot be disputed when once the denomination slip is signed by the Cashier. The duty of the Chief Cashier is to safeguard the cash which he receives from the Paying Cashiers and lock the cash box and it is evident from the fact that the key register is signed by the Chief Cashier. Therefore, the version of the workman that he has not physically verified the cash which he distributed to the Paying Cashier cannot stand for scrutiny.

The charge sheeted employee had the assistance of an advocate, during enquiry proceedings. The enquiry was conducted in their presence. The Chief Manager has given evidence and he has stated that the cash box key is with the Chief Cashier. He has also stated that the key remains with the Chief Cashier of the main cash box and when he goes on leave he hands over the same to the Accountant who in turn gives it to Officer or Senior Clerks. This evidence of the Senior Manager shows that every safeguard is taken for proper custody of the Cash Box Key; but yet the workman would contend that on 7-6-89 when he was preparing the statement he was informed that there was a phone call and he went to the Ground floor to attend the phone call leaving the key of the cash box. If this act does not give room to hold that he was negligent then we do not know what the workman wants to establish to hold that there was negligence. The workman in his written arguments also contended that it was the Manager who has issued the charge sheet, it is he who gave evidence and it was he who has ultimately passed the order of dismissal and it would show that there is violation of

principles of natural justice. Mr. Praful V. Mehta being the Senior Manager is eligible to take disciplinary action against the opp. party. The missing of Rs. 50,000 was reported to him by the workman. According to Mr. Mehta as suggested by the other staff he had kept the wooden box to enable the person to put the money inside the wooden box and it was he who has stated that the box was opened in the presence of all the staff and Rs. 46,000 was found in it. The Sr. Manager being a party to the entire proceedings or things that happened in the Bank, there is no reason as to why he should not give evidence in the enquiry. Likewise, as the Sr. Officer of the Bank, there is nothing unlawful in his passing the order of termination of the workman from service as per the decision of the Board. Therefore, the contention of the workman that the Sr. Manager has played number of roles and therefore, it is not in accordance with the principle of natural justice is a argument without merits.

It is alleged that finger prints in the currency found in the wooden box were not taken. The Manager explained the same by saying that there was hay in the wooden box and no purpose would be served in tracing any finger print in it. It is to be noted that the workman has filed Writ Petition before the Bombay High Court and the learned judge of the Bombay High Court has held that the contention of the workman herein that there was a failure of principle of natural justice cannot succeed. It is stated by the workman in his written argument that the observation of the learned judge in the writ petition is something like a finding in an application under Section 33(2)(b) of the I. D. Act and therefore, there is no bar to this tribunal in considering whether the enquiry was fair and proper in this reference under Section 10 of the I. D. Act. The contention of the workman that the finding of the learned judge in the writ petition is a *prima facie* finding is not correct since the learned judge has discussed in detail the contention raised by the workman and has finally observed that this contention cannot succeed. Therefore, it is not as if the finding given by the learned judge in the writ petition cannot be considered by this Tribunal. In fact, the very contention of the workman that the enquiry is not fair and proper need not be considered by this tribunal in view of the finding of the division bench of the Bombay High Court in W. P. 1113 of 1991. The finding of the learned judge of the Bombay High Court was on the contention of the workman that the document on the basis of which the charge sheet have been issued to him have not been supplied to him, but before this Tribunal, the workman has chosen to contend that the charge is vague, the same person namely the Manager has issued charge sheet and gave evidence and also dismissed him from service, and that the other staff were not examined etc. to contend that the enquiry is not fair and proper. We have already seen that the contention of the workman that the charge is vague is not a tenable one. We have further seen that there is no violation of principles of natural justice in the Sr. Manager taking action

against the workman as well as giving the evidence in the enquiry and passing the impugned order. The only thing that remains to be seen is whether the non-examination of the other staff members vitiates the enquiry. It is needless for me to observe that it is not necessary in a domestic enquiry more number of witnesses are to be examined to prove the charge against the employee. There is no corroboration required and all that is required is only preponderance of probabilities. In the case on hand there is evidence that on 6th June he has taken over the cash from the Cashier on that date and that he has also taken the custody of the keys of the cash box. It is also in evidence that on the next day he had entrusted the cash to the Cashiers and in the evening one of them reported about the shortage. The claim of the workman that it was the duty of the Watchman to give money to the Cashiers is not tenable one. All these aspects would go to show that the non-examination of other staff members is not a matter which would vitiate the enquiry. The management's evidence was found to be satisfactory and the finding has been given by the Enquiry Officer, there is no allegation made by the workman that he was not given any opportunity to cross-examine the witness examined on behalf of the management and that he was not given any opportunity to examine witnesses of his choice and that he was denied the assistance of a defence counsel in the enquiry; in fact an Advocate has represented the workman in the domestic enquiry. When all these materials are taken into consideration the contention of the workman that the enquiry has not been conducted fairly and properly and the finding of the Enquiry Officer is a perverse one are all allegations which have not been proved. In that view, I hold on Issue Nos. 1 and 3 that the enquiry held against the workman is fair and proper and in accordance with the principles of natural justice and the finding of the Enquiry Officer is also a proper one.

In the result, a Part-I Award is passed holding on Issue Nos. 1 and 3 that the enquiry held against the workman is fair and proper and in accordance with the principles of natural justice and the finding of the Enquiry Officer is also a proper one.

Put up for further proceedings on 13th December, 1999.

C. V. GOVARDHAN, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1,
MUMBAI

PRESENT:

Shri Justice S. C. Pandey, Presiding Officer

REFERENCE NO. CGIT-22/1997

PARTIES :

Employers in relation to the management of Co-Op.
Bank of Ahmedabad Ltd., Bombay.

AND

Their Workman.

APPEARANCES :

For the Management : Shri N. S. Paranjpe,
Advocate

For the Workman : Shri V. P. Vaidya,
Advocate

State : Maharashtra

Mumbai, dated the 6th day of January, 2003

AWARD

PART-II

1. This is a reference under section 10(1)(d) read with sub section 2A thereof of Industrial Disputes Act, 1947 (The Act for short) against the order of dismissal dated 14-12-1990 passed against Praful D. Ved (the workman for short) by the Co-operative Bank of Ahmedabad Ltd. (the Bank for short).

2. The terms of reference are as follows :

"Whether the action of the management of Co-operative Bank of Ahmedabad Ltd. in terminating the services of Shri Praful D. Ved is legal and justified ? If not, to what relief is the workman entitled ?

3. My predecessor the then Presiding Officer Justice Shri C. V. Govardhan found the Issue Nos. 1 and 3 were proved. It was found that the enquiry held against the workman was fair and proper and the findings recorded in the enquiry report are not perverse. Accordingly, he passed the Part-I Award dated 5th November, 1999.

The workman filed his affidavit after I joined. He was cross-examined and discharged. The management of Bank did not load any evidence.

Shortly stated the facts of this case are as follows : The workman was working as a Chief Cashier. It was stated on 7th June 1989. He handed over cash to Shri Dollar Acharya and Dinesh Rana who were operating as Paying Cashiers of the Bank. Shri Dollar Acharya reported to workman at the end of day that cash worth Rs. 50,000 was missing. Thereafter, the workman was to be charged with misappropriation of Rs. 50,000 and therefore, he was suspended on 7th July, 1989. The workman did not take the order of suspension. He was sought to be served with the order of suspension but he refused to take it. The workman was served with the order of suspension by registered post and a telegram was also sent to him.

6. The workman was charged as per charge sheet dated 8th August, 1989.

- (i) Aiding conniving or attempting or committing of theft, fraud and dishonest in connection with the business/property or affairs of the Bank or its customers;
- (ii) Misappropriation of the Cash;
- (iii) Commission of act subversive of discipline on the premises of the Bank;
- (iv) Gross negligence or negligence involving or likely to involve the Bank is serious loss or breach of any regulations or rules or instructions from the Manager;
- (v) Refusal to accept any order, communication etc. issued by the management.

The issue Nos. 2, 4 and 5 are inter related. They relate to award of punishment. They are as follows :

- (i) Whether the Bank has committed discrimination against the workman ?
- (ii) Whether the punishment is shockingly disproportionate ?
- (iii) Whether the workman is entitled to reinstatement ?

The finding recorded by the enquiry officer against the workman on charge No. (i) to (iv). This finding is affirmed in Part-I Award.

Shri Praful Ved has not physically verified the cash while distributing to the paying cashiers, or having verified the cash he did not distribute Rs. 50,000 to the paying cashiers, which act on his part appears to be suspicious and must be with his only intention to misappropriate the said amount of Rs. 50,000 himself or along with his other colleagues. In my opinion Shri Praful Ved as a Chief Cashier has acted in irresponsible manner and has tried to avoid his responsibility in his duty.

The charge No. IV is refusal to take the order of suspension was also held to be proved. It is also held to be proved in the Part-I Award.

The workman in his affidavit stated that Dollar Acharya was also charge sheeted on identical charges. He was also found guilty of the said charges. He too was dismissed. In conciliation proceedings the order of dismissal was withdrawn. He was allowed to resume his duties with consequential benefits. The workman claimed that he was being discriminated against by the Bank. In cross-examination the workman admitted it was his duty to supervise the work of paying cashiers. He did not agree that merely because of this fact he should have been given higher punishment.

8. The Bank did not lead any evidence.

9. The question is that was the workman given more punishment than it was due. The finding quoted above shows that enquiry officer has given two alternative

findings (i) that the workman did not verify physically the cash which he handed over to the paying cashier (ii) if he did then he took Rs. 50,000 of Bank with a view to misappropriate it. The enquiry officer or the disciplinary authority have not pondered over the possibility of the more likely alternative in order to fix the correct responsibility. The evidence on record disclosed that it was Dollar Acharya, who reported in the evening that Rs. 50,000 were missing. If the workman had taken Rs. 50,000 he could easily say that Rs. 50,000 were lying with him and produce the amount. The real question was from whose possession Rs. 50,000 were taken away. If it was the case of Bank that Rs. 50,000 were never handed over to Shri Dollar Acharya then, Dollar Acharya should have been the witnesses for the Bank. But the fact is that the needle of suspicion pointed out to him also. It is stated by the workman that Mr. Dollar Acharya was also charged with the identical charges. The Bank did not lead any evidence to refute it. The Bank also did not refute the allegation that the charges against the workman were withdrawn but did not lead any evidence to show why the Bank had agreed to withdraw the charges. The only way this tribunal can deal with this conduct is to draw an adverse inference that there was something in the conduct of Bank which wanted to deprive this tribunal to notice true facts. It is also be noticed as a fact that Bank did not suffer any loss. Somebody had deposited Rs. 46,000 in the box kept by the Senior Manager and rest of the amount was contributed by the Bank employees. There is no evidence that the workman had deposited the amount of Rs. 46,000. Therefore, the rigour of finding for the purpose of sentencing is reduced to that workman failed in his duty of physically verifying the cash before handing it over to paying cashiers. This amounts gross negligence of work. It is also proved that workman refused to take the order of suspension.

10. It is true that as compared to Dollar Acharya workman has been treated very harshly so far as the first three charges are concerned. The fourth charge increased the guilt of the workman but refusal to take suspension order could have been the natural reaction of a person who thought he has been greatly wronged. The conduct of the workman shows that he did not hide the loss of Rs. 50,000 from Superior Authorities. He made the loss known to Senior Manager. Mr. Mehta who had stated so in evidence in the enquiry.

11. The only argument that has been advanced on behalf of the Bank that the Bank employees should be above board as they deal with public money. It has also been argued retaining person like the workman was not interest of the Bank. It has also suggested that workman was not a disciplined person. The additional charge proved against him was that he had not taken the order of suspension. This tribunal was inclined to exercise its powers under Section 11A of the Act. However, there is legal impediment in passing the award.

12. Having considered all aspect of the matters, this tribunal is of the view that it is not open to this tribunal to give any award in this reference. This tribunal cannot sit in judgement over order of the High Court of Bombay in W. P. No. 1113 of 1991 *Praful D. Ved Vs. Co-operative Bank of Ahmedabad*. The order of dismissal dated 14-12-1990 was confirmed by the High Court on 16th Jan. 1992. On the principles of constructive *resjudicata* this tribunal cannot now in this adjudication consider the question of punishment. The dismissal of writ petition implies that the order dated 14-12-1990 has been confirmed. Apart from the principle of *resjudicata* this tribunal cannot upset the order of High Court, Bombay because it is an inferior tribunal. That can be done by Superior Court i.e. the Supreme Court. Accordingly, this reference in this final award is answered by saying that the action of management of the Co-operative Bank of Ahmedabad Ltd. Bombay in terminating services of Praful D. Ved is not liable to adjudicated by this Tribunal on the question of punishment as the High Court of Bombay has dismissed the W. P. No. 1113/1991 *Praful D. Ved Vs. Co-operative Bank Ahmedabad* on merits by order dated 16th Jan. 1992. This Tribunal has already passed Part-I Award against the workman on 5th Nov. 1999.

S. C. PANDEY, Presiding Officer

नई दिल्ली, 29 जनवरी, 2003

का. आ. 583.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, स्टेट बैंक आफ इंडिया के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2, धनबाद के पंचाट (संदर्भ संख्या 124/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-01-2003 को प्राप्त हुआ था।

[सं. एल-12012/141/91-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2003

S.O. 583.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 124 of 1991) of the Central Government Industrial Tribunal No. 2, Dhanbad now as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of State Bank of India and their workman, which was received by the Central Government on 28-01-2003

[No. L-12012/141/91-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2 AT DHANBAD

PRESENT :

SHRI B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute under
Section 10(1)(d) of the I. D. Act, 1947

REFERENCE NO. CGIT-124 OF 1991

PARTIES :

Employers in relation to the management of State
Bank of India, Ranchi and their workman.

APPEARANCES :

On behalf of the Workman : None.

On behalf of the Employers : None.

State : Jharkhand Industry : Banking

Dated, Dhanbad the 10th January, 2003

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/141/91-IR(B-3), dated the 29th August, 1991.

SCHEDULE

“Whether the action of the management of the State Bank of India, Ranchi in not allowing Shri Nanu Gopal Chand to appear in the interview for promotion and appointment in the clerical cadre, was justified ? If not, to what relief the workman is entitled to ?”

2. The case of the concerned workman according to the W. S. submitted by the sponsoring Union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman was appointed as Canteen boy on 21-5-79. His duty hours was similar to that of the permanent employee of the Bank. They disclosed that besides performing duty as a Canteen boy the concerned workman had to perform duties of subordinate cadre employee including officiating in higher incumbency i.e. duties of clerical cadre and officer cadre. They submitted that as per normal/rules the canteen employees are eligible for promotion to the clerical cadre. They disclosed that as per rules as the Canteen boy is considered as a subordinate cadre staff of temporary in nature he was very much entitled to be absorbed in permanent service after completion of nine month service but inspite of existing rules the management did not absorb him in permanent services. They further submitted that as per rule of the Bank a temporary sub-staff is also entitled for annual increment for every completed year but despite rendering continues service for 18 years the management did not pay him any increment due to him. They disclosed that in the month of August, 1983 the concerned workman passed Matriculation examination in 2nd Division. As per existing norms, the employee who passed the Matriculation examination after joining the Bank services are entitled to promotion in clerical cadre. Accordingly his name was

forwarded to the Patna Local Head Office for his promotion to the clerical cadre by the Branch Manager of S. B. I. Lapanga Branch on 21-10-87. Thereafter the Bank's Patna Local Head Office called him for promotional test scheduled to be held on 20-12-87 and allotted his Roll No. As PAT/63. Thereafter, he appeared in the said test on the schedule day and was selected for appearing before the interview Board on 13-2-88. They alleged that curiously the concerned workman was not allowed to appear before interview schedule to be held on 13-2-88 taking the ground that he was canteen boy. They submitted that management illegally, arbitrarily and violating the principle of natural justice deprived the concerned workman to appear before the interview board for the reason best known to them. Accordingly the sponsoring union raising the industrial dispute submitted prayer to pass award directing the management to allow subordinate cadre wage with effect from his initial joining in the Bank i.e. from 21-5-79 and to promote him to clerical cadre of 1987 batch and clerical cadre scale with retrospective effect.

3. The management on the contrary after filing W. S.-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in their W.S.

They disclosed that staff strength of Lapanga Branch of the Bank where the concerned workman was appointed by the L. I. C. as canteen boy is only 9. They disclosed that a canteen at a branch where staff strength is less than 200 is run and managed by the members of the staff at the Branch/office in the form of LIC. They submitted that the concerned workman was appointed by L.I.C. at Lapanga Branch where staff strength was nine only and for which there was no scope to equate his work with that of the work of canteen boy in the branch/officer where staff strength is more than 200. It has been submitted that LIC is formed at the branches/offices of the Bank to determine the welfare activities of the Bank out of the welfare fund allocated to them. No salary is paid to the canteen boy who is appointed by the LIC. Actually the L.I.C. discharges their function on the basis of subsidy given by the Bank. Actually LIC and the Bank are separate and distinct from each other and for which the Bank has no control in the matter of appointment of the canteen boy in the manner of working of the canteen boy or in the management of the canteen. They disclosed that provisions for promotion etc. are applicable to only those canteen boys who are recruited by the Bank in terms of the agreement with the Union recognised by the Bank. They disclosed that as the concerned workman was not appointed by the Bank there is no scope at all to consider that he was employee of the Bank. They submitted that the Bank only has taken responsibilities of the canteen boys where the staff strength of the Bank is more than 200. They submitted that the then Branch Manager of Lapanga Branch due to inadvertent mistake and also due to his ignorance sent the concerned workman to pre-examination training programme

for promotion to clerical cadre while the said programme was meant for Bank's subordinate cadre employees belonging to SC/ST. However relying on circular No. 72 of 1986 they submitted that permanent canteen employees of the Bank are also eligible for promotion. As the concerned workman was not at all an employee of the Bank there was no question of referring him to pre-examination Training centre or causing his appearance in the written test along with other permanent subordinate cadre employees but it happened due to ignorance and inadvertent mistake of the Branch Manager. They disclosed that the concerned workman appeared in the written test, and result of the test was sent by the Head to the Branches in routine manner and the Head office advised the Branch that the interview shall be held on 13-2-88. Simultaneously the Branch offices were directed to forward upto date service sheet of the employee for ascertaining whether the persons who qualified for interview, will be eligible for promotion. Since there was no service sheet of the concerned workman as he was not the employee of the Bank, the same could not be sent. They disclosed that in the meantime when the fact of the concerned workman's appearance in the written test came to the knowledge of the controlling office of the Branch i.e. Regional Office at Ranchi, they by letter No. RM/IV/107/3 dt. 4-1-88 advised the branch to the effect that Sri Chand was not the canteen boy of the Bank and as such he was not entitled to promotion under the Bank's promotional policies for subordinate staff and accordingly he was not allowed to appear before the interview. In view of the facts and circumstances they submitted that they did not commit any illegality or took any arbitrary decision violating the principles of natural justice in not allowing the concerned workman to appear before the interview for considering his promotion in the clerical cadre. Accordingly, they have submitted their prayer to pass award rejecting the claim of the concerned workman.

4. The points to be decided in this reference are :—

"Whether the action of the management of State Bank of India, Ranchi, in not allowing Shri Nanu Gopal Chand to appear in the interview for promotion and appointment in the clerical cadre, was justified? If not, to what relief the workman is entitled to?"

5. Decision with reasons :

It is seen from the record that the evidence of the concerned workman was recorded in part on 21-3-02 and deferred for his further examination. It transpires that thereafter the concerned workman did not appear before the Tribunal for his evidence and for which the management has been deprived of cross-examining WW-1. His part evidence accordingly is liable to be expunged as it has no evidentiary value in the eye of law. In view of the facts and circumstances management also declined to adduce any evidence on their part. Accordingly on the basis of the pleadings of both sides and relevant papers on record let

me consider whether the claim of the concerned workman which has been placed by the sponsoring Union finds any basis or not.

6. It is admitted fact that the concerned workman was a canteen boy at Lapanga Branch of S. B. I. being appointed by the L. I. C. The contention of the sponsoring union is that a canteen boy as per circular of the Bank is considered as temporary sub-staff of the Bank and they are very much eligible to get their promotion in clerical cadre subject to fulfilment of requisite qualification. They submitted that as the concerned workman passed Matriculation examination in 2nd Division in the year 1983 and accordingly his name was forwarded to the Patna Local office by the Branch Manager for his promotion in the clerical cadre. Thereafter he was allowed by the management to sit for the written test and after getting his success in the written test he was called for to appear before the interview on 13-2-88 but subsequently they illegally and arbitrarily deprived him to appear in the interview and for which in spite of fulfilling his requisite qualification he had been deprived of getting his promotion in the clerical cadre.

7. On the contrary from the submission of the management I find a different picture. They submitted categorically that the concerned workman was not at all a canteen boy appointed by the management. Actually he was engaged by the L. I. C. of Lapanga branch where the staff strength never exceeded nine. They further submitted that LIC in each branch is formed to determine the welfare activities of the Bank and its expenses is met through welfare fund. Subsidy also is given to carry out the welfare work smoothly and for which there is no scope to pay any salary to the canteen boy who is engaged by the L. I. C. to serve tea etc. to the staff all throughout the day during working hours. They submitted that as per agreement bank will run a canteen where staff strength exceeds 200. In that case those canteen boys are to be considered as the employees of the Bank and they are eligible to appear in the examination for getting their promotion in the clerical grade. Admitting the fact relating to allowing the concerned workman to appear in the written test they submitted that due to inadvertent fault committed by the Branch Manager of Lapanga Branch he got such scope. Immediately after detecting that the concerned workman was stopped from appearing before the interview Board.

8. Therefore, considering the facts disclosed in the pleadings of both sides it is to be looked into if the concerned workman was an employee of the Bank. It is admitted fact that LIC Lapanga Branch engaged the concerned workman as canteen boy. The LIC is formed with the staff of the Bank with a view to look after its welfare. The expenses incurred to that effect is met from Welfare fund as well as subsidy given by the Bank. The LIC for the welfare of the Bank can engage any person and wages to him is paid from the fund. Accordingly the person so engaged cannot be considered as an employee of the

Bank. The same principle is applicable to the concerned workman who has claimed himself as canteen boy. As per agreement between the State Bank of India and its workmen regarding canteen employees dt. 31-10-77 it has been clearly mentioned that the provision of canteen facilities at branches and offices of the Bank set out as per schedule and these canteen employees shall be considered as the employees of the bank. The schedule has clearly mentioned the name of the branches and offices where canteen facilities have been extended. From this schedule I do not find the name of Lapanga Branch where canteen facility was extended. Thereafter by fresh agreement dt. 28-11-81 the parties i.e. the management and the workmen of State Bank of India agreed to implement the Shastri Award and Desai Award in respect of the canteen employees. Thereafter by fresh circular dt. 5-11-90 the management granted subsidy towards wages of the staff engaged by the LIC in the staff canteen by debit to charges account. Therefore, these circulars speak clearly that the canteen boy other than the canteen boys as per schedule are not the employees of the Bank. Accordingly any canteen boy of these branches is debarred from getting the opportunity to appear in any examination for his promotion in clerical cadre as per clause 4 of the circular dt. 20-9-88. Accordingly onus lies on the sponsoring union to establish that the concerned workman being a canteen boy is an employee of the management. Onus also rests on the sponsoring union to show that if any person is appointed by LIC as a Canteen boy in a Branch which does not include as per schedule shall be considered as employee of the Bank. It is seen that in spite of getting ample opportunities the sponsoring union did not consider necessary to adduce any cogent evidence to answer the questions raised above. No evidence is also forthcoming on the part of the sponsoring union to show that being an employee of Lapanga Branch he used to sign the attendance register meant for the staff of the Bank. There is also no evidence to show that he used to draw his salary signing the acquittance roll of the Bank. Not a single scrap of paper is forthcoming to show that he discharged his duties as an employee of the Bank. It is fact that being recommended by the Branch Manager he was allowed to by the local Head Office to appear in the written test but the management submitted categorically that it was a mistake and for which it was duly rectified. As the concerned workman appeared in the Written test for getting promotion in the clerical grade does not justify the claim that he was an employee of the Bank. The circulars and agreement mentioned above have clearly specified the name of the Banks/office who are authorised to maintain canteens with the help of the canteen boys who also should be considered as employee of the Bank. As such after careful consideration of all the facts and circumstances there is sufficient scope to say that the sponsoring union have failed to substantiate their claim in question and for which the concerned workman is not entitled to get any relief.

In the result, the following Award is rendered :—

“The action of the management of the State Bank of India, Ranchi in not allowing Shri Nanu Gopal Chand to appear in the interview for promotion and appointment in the clerical cadre, was justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 29 जनवरी, 2003

का. आ. 584.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, रेलवे मेल सर्विस के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-2, धनबाद के पंचाट (संदर्भ संख्या 42 ऑफ 1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-1-2003 को प्राप्त हुआ था।

[सं. एल-41012/272/95-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2003

S.O. 584.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 42 of 1997) of the Central Government Industrial Tribunal No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Railway Mail Service, and their workman, which was received by the Central Government on 28-1-2003.

[No. L-41012/272/95-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, AT DHANBAD.

PRESENT

Shri B. Biswas,
Presiding Officer.

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act., 1947

REFERENCE NO. 42 OF 1997

PARTIES : Employers in relation to the management of
Railway Mail Service, Patna Division and
their workman.

APPEARANCES :

On behalf of the workman : Shri S. Paul, Advocate.

On behalf of the employers : Shri N. Nath, Advocate.

State : Jharkhand Industry : Railway Mail
Service.

Dated, Dhanbad, the 21st January, 2003.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-41012/272/95-I.R. (B-I). Dated, the 11th March, 1997.

SCHEDULE

“Whether the action of R.M.S. management in terminating the services of Shri Dilip Kumar Yadav, is justified or Not ? If not then what relief he is entitled to ?”

2. The case of the concerned workman according to his W.S. in brief is as follows :—

In the W.S. the concerned workman submitted that he worked as Extra Departmental Mail Man at Mokamah Railway Mail Service against vacant post in between the period from 18-3-86 to 2-6-92. He submitted that during this period he worked continuously from 18-3-86 to 28-2-87 i.e. continuously for period of 11 months 14 days. Thereafter from 15-12-87 to 20-9-88 he worked continuously for a period of 8 months 17 days. After that from 6-10-89 to 12-3-91 i.e. he continuously worked for one year five months. From 10-10-91 to 8-4-92 he worked for five months 29 days and from 27-4-92 to 2-6-92 he worked for one month 25 days in all. He alleged that Sub-record officer, RMS, Mokameh terminated his service with effect from 26-6-92 though the post against which he worked was a vacant one. As a result, he raised an industrial dispute before the ALC(C) Patna on 10-5-95 under Section 2A of the I.D. Act, 1947 for conciliation. The said conciliation proceeding ended in failure as the management did not agree to reinstate him to his service. Accordingly it resulted reference to this Tribunal for Award. He submitted further that thereafter the Sub-Record Officer, Mokameh notified the vacancy of the post against which he worked to the Employment Exchange, Patna who sponsored the name of some candidates including his name for consideration of the management. Thereafter in view of letter issued by the management dt. 16-11-96 he appeared before the Sub-record Officer on 2-12-96 and produced all his original documents in support of his claim for appointment. But inspite of fulfilling all the conditions the management instead of giving him appointment issued appointment letter to other candidates illegally, arbitrarily and violating the principle of natural justice. Accordingly he submitted his prayer before this Tribunal for reviewing the case and to pass necessary award in support of his claim.

3. The management on the contrary after filing W.S.-cum-rejoinder have denied all the claims and allegations which the concerned workman asserted in his W.S. The management submitted that as the Postal department is not an industry under the law the concerned workman is debarred from raising an industrial dispute under I.D. Act

and for which the instant reference is not maintainable in the eye of law. The management submitted that the Govt. of India has framed (Conduct and Service) Rules, 1964 for Extra Departmental staff in the department of post and so far Railway Mail Service is concerned there are three types of posts of ED Agent known as E.D. Mailman/Porter (ii) ED Night Chaukidar (iii) ED Stamp Vendor. They submitted as per Rule 4 of the EDA (Conduct and Service) Rules, 1964 ED Mail carrier/Runner and Mail Peons are to reside at the Station of the main post office or stages where from the mails originates/terminates. They disclosed that three categories of persons stated above are not regular employees of the Postal department and do not get their salaries as their work load takes hardly 2 to 5 hours per day. Other unique system of the E.D. Agent is that the person working as ED Mailman/Porter ED Night Guard and ED Stamp Vendor can substitute a person selected by them to work in the RMS at his place, at his own risk and responsibilities in case the incumbent goes on leave or goes on adhoc/temporary promotion on short term vacancy in Group-D cadre etc. During this period, the substituted man gets the allowances and not pay as admissible as per rules. He has not legal status and cannot be treated at par with a daily rated Mazdoor/casual labourer. They submitted that as per rules of the department of Post framed by the Govt. of India, the management is liable to fill up the vacancy through Employment Exchange under the Employment Exchange Act keeping in mind the reservation policy of the Govt. of India. Accordingly all the three categories of the persons stated above in the RMS are selected after their names are sponsored by the Employment Exchange. They further submitted that the appointment and service condition of ED Agents specifically require minimum educational qualification and selection is to be made on the basis of the highest marks obtained by the candidate in the Matriculation examination amongst the candidates. Another unique feature of EDA system is that the man substituted CEASED to work the moment the man substituting him rejoin his duty or gets promotion against departmental promotion on regular basis. They disclosed that the concerned workman worked as E.D. substitute vice Shri Kapildeo Prasad his own brother who was ED Mailman SRO Mokameh. Shri Kapildeo Prasad worked as officiating mailman during different period providing D. K. Yadav as E.D. substitute at his own risk and responsibility under the provision of the departmental rules. They disclosed that during the period from 18-3-86 to 21-6-92 the concerned workman was engaged from time to time by them and as such he had no occasion at all to work continuously during this period. Shri Kapildeo Prasad, E.D. Mailman passed the examination of Group-D cadre and was promoted as Mailman vide Memo No. 585 (B-4/ED/Promotion/Gr. D) dated 29-6-92. He assumed the charge of Mailman independently with effect from 1-7-92 and services of his E.D. Substitute Shri Dilip Kumar Yadav stood automatically terminated as per the service rules. They

disclosed that in 1996 two vacancies arose for the post of EDMM, Mokameh RMS and the applications were called through Employment Exchange office Patna which sponsored the candidates registered under it including the name of the concerned workman. As the name of the concerned workman was lower in the merit list his candidature could not be considered and for which there was no scope to appoint him as EDMM. They disclosed that the concerned workman was neither appointed nor his service was terminated by the employer. Accordingly there is no scope to say that they committed any illegality or took any arbitrary decision violating the principle of natural justice in discharging the concerned workman from his work the moment his brother Kapildeo Prasad was selected as Mail Man with effect from 1-7-92. Accordingly the management submitted their prayer to pass an Award rejecting the claim of the concerned workman.

4. The points to be decided in this reference are :—

“Whether the action of R.M.S. management in terminating the services of Shri Dilip Kumar Yadav is justified or not? If not, then what relief he is entitled to?”

DECISION WITH REASONS

5. It is seen from the record that the management have examined three witnesses in order to substantiate their claim while the concerned workman also examined two witnesses in support of his claim. Before entering into the merits of the case let us first consider whether the instant reference is maintainable in the eye of law according to the prayer made by the management. The management submitted that as the postal department is not an industry under the law the industrial dispute which has been raised by the concerned workman is not maintainable in the eye of law. In course of hearing learned Advocate for the concerned workman referring the decisions reported in AIR 1998 SC 656 and AIR 1978 SC 548 submitted that the claim of the management has no basis at all. He submitted that in view of the decisions referred to above the postal department has to be considered as industry and for which the industrial dispute which was raised by the concerned workman is very much maintainable in the eye of law. In the decision reported in AIR 1998 SC 656 Their Lordships of the Hon'ble Apex Court observed in para 7 :—

“A two-Judge Bench of this Court in Theyyam Joseph's case (1996) 8 SCC 489 : (1996 AIRSSCW 1365) (supra) held that the functions of the postal department are part of the sovereign functions of the State and it is, therefore, not an 'industry' within the definition of Section 2 (j) of the I.D. Act, 1947. Incidentally this decision was rendered without any reference to seven-Judge bench decision in Bangalore Water Supply (AIR 1978 SC 548) (supra). In a later two Judge Bench decision in Bombay Telephone Canteen Employees' Association case AIR 1997 SC 2817, this decision was followed for

taking the view that the Telephone Nigam is not an 'Industry'. Reliance was placed in Theyyam Joseph's case (1996) 8 SCC 489 : (1996 AIR SCW 1365) (supra) for that view. However, in Bombay Telephone Canteen Employees' Association case (i.e. the latter decision), we find a reference to the Bangalore Water Supply case. After referring to the decision in Bangalore Water Supply, it was observed that if the doctrine enunciated in Bangalore Water Supply is strictly applied, the consequences is 'catastrophic'. With respect, we are unable to subscribe to this view for the obvious reason that it is in direct conflict with the seven-Judge Bench decision in Bangalore Water Supply case (supra) by which we are bound. It is needless to add that it is not permissible for us, for that matter any Bench of lesser strength to take a view contrary to that in Bangalore Water Supply (supra) or to by-pass that decision so long as it holds the field. Moreover, that decision was rendered long back-nearly two decades earlier and we find no reason to think otherwise. Judicial discipline requires us to follow the decision in Bangalore Water Supply case (1978) 2 SCC 213 : (AIR 1978 SC 548). We must, therefore, add that the decision in Theyyam Joseph (1996) 8 SCC 489 : (1996 AIR SCW 1365) and Bombay Telephone Canteen Employees' Association AIR 1997 SC 2817, cannot be treated as laying down the correct law. This being the only point for decision in this appeal, it must fail."

Further in the decision reported in AIR 1978 SC 548 Their Lordships of the Hon'ble Apex Court observed the following :—

"Industry" as defined in S.2(j) has a wide import.

Where there is (i) systematic activity, (ii) organised by co-operation between employer and employee (direct and substantial element is chemical) (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss e.g. making on a large scale, prasad or food) prima facie, there is an "industry" in that enterprise.

Absence of profit motive or gainful objective is irrelevant, the venture in the public, joint private or other sector.

The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

If the organisation is a trade or business it does not cease to be one because of philanthropy animating the under taking.

Although S.2(j) uses words of the widest amplitude in its two limbs, their meaning cannot be magnified to over-reach itself.

"Undertaking" must suffer a contextual and associational shrinkage as explained in AIR 1953 SC 58, so also service, calling and the like. This yields the inference that all organised activity possessing the triple elements above mentioned although not trade or business, may still be "industry" provided the nature of the activity viz. the employer-employee basis, bears resemblance to what is found in trade or business. This takes into the fold of "industry" undertakings, calling and services adventures analogous to the carrying on the trade or business. All features, other than the methodology of carrying on the activity viz. in organising the co-operation between employer and employee, may be dissimilar. It does not matter, if on the employment terms there is analogy.

Application of these guidelines should not stop short of their logical reach by invocation of creeds, cults or inner sense of incongruity or outer sense of motivation for or resultant of the economic operations. The ideology of the Act being industrial peace, regulation and resolution of industrial disputes between employer and workmen, the range of this statutory ideology must inform the reach of the statutory definition. Nothing less, nothing more.

The consequences are (i) professions, (ii) clubs (iii) educational institutions, co-operatives, (iv) research institutes, (v) charitable projects and (vi) other kindred adventures, if they fulfil the triple tests listed above, cannot be exempted from the scope of S.2 (j).

Considering the decisions referred to above and in view of the observation of the Hon'ble Apex Court there is no dispute to hold that postal department has to be considered as "Industry" and accordingly the concerned workman did not commit any illegality in raising the industrial dispute with a view to redress his grievance. Accordingly I hold that the instant reference is very much maintainable in the eye of law.

6. Now the point for consideration is whether the concerned workman is entitled to get award in support of his claim or not. Considering the evidence of the workman and also considering the facts disclosed in the W.S. it transpires that he has made two fold allegations against the management. His first allegation is that inspite of continuous service in between period from 18-3-86 to 21-6-92 as Extra Departmental Mail Man at Mokemeh Railway Mail Service Office against vacant post, the management without showing any reason terminated his service illegally arbitrarily and violating the principles of natural justice. His second allegation is that during the year 1996 SRO Railway Mail Service Mokemeh notified vacancy of the post in which he was working to the Employment Exchange Office Patna and in view of that

notification the Employment Exchange, Patna sponsored the names of some candidates including his name. He submitted that on 2-12-96 he appeared before the Sub-Record Officer in response to his letter dt. 16-11-96 with all documents in support of his claim for getting his appointment as E.D. Mail Man. He alleged that in spite of his qualification the management ignoring his name gave appointment to other candidates illegally and arbitrarily. Learned Advocate for the management submitted in course of hearing that the Govt. of India introduced extra departmental agent system long back. For this purpose the Postal Departmental as per Extra Departmental agents (Conduct and Service) Rules, 1964 enters into a contract with the competent persons to take over the agency of E.D.S. P.M./E.D.B.P.M./E.D.D.A/E.D.M.O. One of the condition of getting such agent is that the persons concerned should possess adequate means of livelihood. Other feature of this system is that the person working as EDBPM/EDDA/EDMC can substitute a persons selected by them to work in the post office of Mail service at his own risk and in case incumbent goes on leave or goes on deputation to E.D. post and short term vacancy of Group-D etc. During this period the substituted workman gets the allowance and not pay as admissible as per the rules. Further that persons will have no legal status and cannot be treated at par with daily rated mazdoor/Casual labourer. He submitted further that the work of the telecommunication department and postal department is completely different in as much as a person employed as casual gets minimum pay and allowance as admissible to a regular employees of the Telecommunication department. But no casual worker is employed in the Rural post office/RMS like telecommunication and other department of Govt. of India and other public sector undertaking. The department of post as per Rules framed by the Govt. of India has to fill up vacancy through Employment Exchange under the Employment Exchange Act keeping in mind the reservation policy of the Govt. of India. Accordingly all the three categories of persons stated above in RMS are selected after their names are sponsored by the Employment Exchange. He further submitted that the appointment and service condition of ED Agents specifically require minimum educational qualification and selection is to be made on the basis of highest mark obtained by the candidates in matriculation examination amongst the candidates. Another feature of E.D. system is that the man substituted ceased to work the moment the man substituting him rejoins his duty or gets promotion against departmental post on regular basis. It is the contention of the management that Kapildeo Prasad originally was E.D. Mail Man. During his period the said Kapildeo Prasad was transferred to discharge his duties as officiating mail man. As a result the agency of E.D. Mail Man cropped up in his absence at R.M.S. Mokemeh and for which taking the privilege of the rules the said Kapildeo Prasad referred the name of his brother D.K. Yadav to work as E.D. substitute during the

period of his absence. Accordingly the management allowing such prayer engaged the concerned workman to discharge as E.D. substitute in place of his own brother Kapildeo Prasad and in this way at different times in between the period from 18-3-86 to 21-6-92 the concerned workman worked as E.D. substitute. The concerned workman i.e. WW-2 in course of his evidence, however categorically denied this fact. He submitted that he was appointed as E.D. Mail Man at R.M.S. Mokemeh in the month of March, 1986 and worked there till June, 1992. During this period he not only received his salary but also received Bonus from the management like permanent E.D. Mail Man. He also enjoys leave like permanent staff. He categorically denied the fact that he was a substitute of his brother and discharged his duties as E.D. Mail Man. The management in order to substantiate the claim that the concerned workman was a substitute of his brother relied on a series of document mark as Ext. M-1, M-2, M-3, M-4, M-5, M-6, M-7, M-8, M-9, M-10, M-11, M-12 and M-13. It is further seen that vide documents marked as Ext. M-2, M-6, M-10, M-11 and M-12 Kapildeo Prasad requested the management to engage his brother D.K. Yadav as E.D. substitute during the period of his absence. It is seen that the management on all five occasions considered the prayer of Kapildeo Prasad and allowed the concerned workman i.e. his brother to discharge the duties as E.D. substitute at R.M.S. Mokemeh under his risk and responsibility. Therefore, the claim which the concerned workman made that he was not the substitute of his own brother and discharged his function as E.D. Mail service finds no basis at all. On the contrary there is sufficient reason to believe that he concealed the truth before the Tribunal on oath probably with a view to get his relief in view of his claim. The onus absolutely rests on the concerned workman to establish that he was independently engaged by the management to discharge his duties of E.D. Mail Man at R.M.S. Mokemeh. It is seen that during the period from 18-3-86 to 26-6-92 the concerned workman was engaged by the management to discharge his duties as E.D. Mail Man, R.M.S. Mokemeh atleast on six occasions. It appears that in each occasion his period of engagement was for a limited period and after the said period is over he was discharged from his duties. According to the contention of the management that such time to time engagement was given to the concerned workman being the substitute of his own brother Kapildeo Prasad who was engaged as officiating mail man at different places by order of the management. Now the question whether there is any scope for regularisation of the services of the concerned workman nor not. In this connection a decision reported in AIR 2000 SC 3522(2) may be taken into consideration. In the said decision Their Lordships of the Hon'ble Apex Court observed that a substitute extra departmental agents of Postal Dept. who have worked for 180 days or more in one calendar year continuously cannot legally claim to be regularised on basis that they have worked for 180 days

continuously. Their Lordships observed, however, if they have worked for long periods continuously their cases could be considered by Dept. for absorption. Apart from referring the decision above learned Advocate for the concerned workman relied on the decision reported in AIR 1978 SC. 8. In para-14 of the said decision Their Lordships observed :

“Striking off the name of the workman from the rolls by the management is termination of his service. Such termination of service is retrenchment within the meaning of Section 2(oo) of the Act. There is nothing to show that the provisions of Section 25F(a) and (b) were complied with by the management in this case. The provisions of S. 25F (a), the provision apart and (b) are mandatory and any order of retrenchment, in violation of these two peremptory conditions precedent, is invalid.”

Referring this decision learned Advocate submitted that as the concerned workman worked under the management and when the Postal departmental has been considered as “Industry” the management by terminating the services of the concerned workman without giving any notice/compensation has violated the provision of Section 25F of the I.D. Act and for which such termination was illegal and arbitrary and for which he has to be reinstated to his service. On the contrary learned Advocate for the management submitted that the status of the concerned workman was a substitute of his brother to discharge his function as E.D. Mail Man under the risk and responsibility of his own brother during the period of his absence. Such engagement was absolutely temporary and it becomes invalid the moment the original E.D. Mail man rejoins his duty. Learned Advocate further submitted that during the period from 1986 to 1992 as Kapaildeo Prasad was deputed as officiating mail man by the management under his recommendation, risk and responsibility his brother i.e. the concerned workman was engaged to discharge his duties as E.D. mail Man at R.M.S. Mokameh from time to time. He was not engaged independently and therefore, there was no scope at all either to retrench the concerned workman or to terminate his service. There was also no scope in view of the facts and circumstances to give any notice under Section 25F of the I.D. Act. I have already discussed above that the concerned workman worked as E.D. mail man at R.M.S. Mokameh being a substitute of his brother Kapaildeo Prasad under his risk and responsibility. It further transpires that this workman did not discharge his duties continuously as E.D. Mail man from 1986 to 1992. His engagement was absolutely for a temporary period and he was engaged atleast on five occasions during this time. Therefore, there is no scope to say that the concerned workman continuously discharged his duties during the period in question. In this connection a decision reported in AIR 2002 Supreme Court 3552(2) may be taken into

consideration. As the concerned workman has failed to show any credible paper that he continuously worked for a long period there is no scope to say that his stoppage of work was irregular and for which his service is to be regularised. Accordingly after careful consideration of all the facts and circumstances I find no reason at all to say that the management illegally, arbitrarily violating the principle of natural justice stopped him from discharging his duties.

7. It has been contended by the concerned workman that in view of letter dt. 16-11-96 issued by the Sub-Record Officer Railway Mail service Mokameh he appeared before him on 2-12-96 and produced all his original documents which were examined and verified by him but he did not appoint him as workman though he fulfilled all requisite conditions. He alleged that instead of the management appointed two other persons ignoring his claim illegally, arbitrarily and violating the principle of natural justice. On the contrary the management denying categorically the claim of the concerned workman submitted that the said appointment was given to other persons because of the fact that as per qualification certificates these two persons get the highest marks. As the concerned workman's qualification did not fulfil the condition for appointment there was no scope on their part to issue any appointment letter to him. Here the point which has been raised is whether this fact can be taken into consideration in disposing of the reference in question. It is seen that the concerned workman raised an industrial dispute after alleged termination of his service by the management before the ALC(C) Patna who initiated proceeding vide No. 5(8)/95-ALC(C)-I on 23-5-95 for conciliation. In para-5 of the W.S. it has been submitted that the conciliation proceeding ended in failure because the management did not agree to reinstate him and hence this reference was made by the Govt. of India, Ministry of Labour before this Tribunal for Award. It is seen from the W.S. submitted by the concerned workman that long after raising such industrial dispute the question of his appearance before the interview raised. It is seen that he appeared before the S.R.O. on 2-12-96 i.e. long after the industrial dispute was raised by the concerned workman. No evidence is forthcoming before this Tribunal whether this second issue was also raised by the concerned workman before the ALC(C) as industrial dispute for conciliation. Accordingly, there is no scope to consider this issue as of the reference because the reference made by the Ministry of Labour Govt. of India speaks clearly that whether the action of the RMS management, in terminating the services of Shri Dilip Kumar Yadav is justified or not? The reference itself is accordingly clear enough to draw conclusion that the second plea in the matter of his fresh appointment as per interview was not at all raised by the concerned workman as “Industrial dispute” and for which it was not considered at all. This Tribunal as per provision of law has to answer

the reference in question. There is no scope to go beyond the terms of reference. The reference speaks clearly whether termination of the concerned workman was justified or not? Naturally there is no scope to go beyond this periphery. My discussion above will speak clearly how the concerned workman has failed to justify his claim that he was illegally terminated by the management. In view of the facts and circumstances, I, therefore, hold that the concerned workman is not entitled to get any relief according to his prayer. In the result the following Award is rendered :

"The action of R.M.S. management in terminating the services of Shri Dilip Kumar Yadav is justified. Consequently, the concerned workman is not entitled to get any relief."

B. BISWAS, Presiding Officer.

नई दिल्ली, 31 जनवरी, 2003

का. आ. 585.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार, इंडियन ओवरसीज बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम मंत्रालय, चेन्नई के पंचाट (संदर्भ संख्या 636/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2003 को प्राप्त हुआ था।

[सं. एल-12012/223/1997-आई.आर.(बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st January, 2003

S.O. 585.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 636/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of Indian Overseas Bank and their workman, which was received by the Central Government on 30-1-2003.

[No. L-12012/223/1997-IR(B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI

Tuesday the 17th December, 2002

PRESENT

K. KARTHIKEYAN, Presiding Officer,

INDUSTRIAL DISPUTE NO. 636/2001

(Tamil Nadu Principal Labour Court CGID No. 16/98)

[In the matter of the dispute adjudication under clause (d) of sub-section (1) and sub-section 2(A) of

section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the President, Indian Overseas Bank Employees Trade Union and the management of Indian Overseas Bank, Chennai.]

BETWEEN

The President, : I Party/Claimant
Indian Overseas Bank
Employees Trade Union.

AND

The General Manager, : II Party/Management
Indian Overseas Bank,
Chennai

APPEARANCE :

For the Claimant : Mr. K. V. Ananthakrishnan,
Advocate

For the management : M/s N. G. R. Prasad,
S. Vaidyanathan,
S. Satish Kumar, Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned industrial dispute for adjudication vide Order No. L-12012/223/97/IR(B-II) dated 29-06-98.

This reference has been made earlier to the Tamil Nadu Principal Labour Court, Chennai, where the same was taken on file as CGID No. 16/98. When the matter was pending enquiry in that Principal Labour Court, the Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu Principal Labour Court to this Tribunal for adjudication. On receipt of records from that Tamil Nadu Principal Labor Court, this case has been taken on file as I.D. No. 636/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 16-10-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. The Claim Statement and Counter Statement of either side were filed earlier before the Tamil Nadu Principal Labour Court, Chennai, when the matter was pending there for adjudication.

Upon perusing the Claim Statement, Counter Statement, the oral and documentary evidence let in on the side of the I Party/Claimant and the documentary evidence let in on the side of the II Party/Management, the other material papers on record, the written arguments filed by the learned counsel for the II Party/Management, after hearing the arguments advanced by the learned counsel for the I Party/Claimant, and this matter having stood over:

till this date for consideration, this Tribunal has passed the following :

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :

“Whether the demand of the Indian Overseas Bank Employees Trade Union for regularisation of Smt. Kaveri, Temporary Sweeper, District Court Extension Counter, Salem is justified or not ? If justified, to what relief Smt. Kaveri is entitled ?”

2. The averments in the Claim Statement of the I Party/Claimant Indian Overseas Bank Employees Trade Union, Chennai (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner Union has raised this industrial dispute espousing the cause of the workman Smt. G. Kaveri against the II Party/Management Indian Overseas Bank. The II Party/Management is having a District Extension Counter at Salem. One Mr. Manickam was a permanent part-time sweeper attached to the District Court, Extension Counter, Salem. He was transferred to Seelanaickenpatti branch in November, 1993. The bank wanted to select a sweeper through Employment Exchange to fill up the vacancy. As the process to select sweepers through Employment Exchange would take time, the bank engaged the service of Smt. G. Kaveri from 22-11-93. The concerned workman Smt. G. Kaveri was employed as a sweeper on temporary basis in the permanent vacancy at District Court, Extension Counter of the II Party/Management bank at Salem from 22-11-93 to 24-11-94 without any break. She had put in 380 days of continuous service. Instead of regularising her services, the bank called for candidates to fill up the permanent vacancy by new recruits. One Sri E. Sivakasi was selected through Employment Exchange and joined service from 27-11-94. Smt. G. Kaveri was removed from service from 24-11-94. She said Sivakasi worked as Sweeper and water boy from 27-11-94 to 18-02-97. The said person left the job and joined insurance company. The concerned workman was again asked to work from 18-02-97 till one Marimuthu was appointed through Employment Exchange from 16-06-97. He worked from 16-06-97 to 05-02-98. Mr. Marimuthu left the service on 5-2-98. Hence, the said Kaveri has been working as Sweeper from 6-2-98 till date continuously. A sum of Rs. 20 is paid per day on weekly basis. In view of G. Kaveri's continuous service with the bank, the claimant union had raised the dispute to regularise her service as per law. The Govt. has referred the matter to this Hon'ble Tribunal for adjudication. The concerned workman Smt. Kaveri, temporary employee has to be regularised in permanent vacancy in time scale of pay. She has worked from 22-11-93 to 29-11-94 and from 18-02-97 to 16-06-97 and from 06-02-98 till date. She has put in more than 240 days of continuous service in a year to claim permanent status. In order to prevent the concerned

workman Smt. G. Kaveri from claiming continuous service and circumvent the law for regularisation of service, the Respondent has alleged that one Kaveriammal, mother-in-law of Kaveri worked on alternate days during the relevant period between 22-11-93 and 29-11-94 and from 16-6-97 to 6-2-98. Kaveriammal was aged 70 years and she was not physically fit to work as a sweeper. After Sivakasi left the services, the II Party/Management as per Section 25H of the Industrial Disputes Act, 1947 ought to have offered and given the opportunity for employment to the concerned workman Smt. G. Kaveri who was a retrenched workman on the basis of preference over others. The Employment Exchange (Compulsory Employment Notification of Vacancies) Act, 1959 has no application to the post of sweepers and class IV employees. Since the concerned workman has registered her name with the Employment Exchange, the II Party/Management has to regularise her service. The concerned workman by letter dated 22-8-94 requested the Assistant General Manager (Personnel) Central Office to regularise and confirm her services on permanent basis. The branch sent a letter dated 25-8-94 the Regional Office, Salem recommending for regularisation of her services on permanent basis. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to pass an award regularising the services of Smt. G. Kaveri from 22-11-93 giving weightage for the period she worked and directing payment of time scale of pay for the period she worked.

3. The averments in the Counter Statement filed by the II Party/Management, Indian Overseas Bank, Chennai. (hereinafter refers to as Respondent) are briefly as follows :

The Respondent is a nationalised bank with branches functioning throughout the country. Being a Central Govt. Undertaking, it has fixed the number of posts to be operated in each of its establishments. No one is permitted to employ any person in the service of the bank beyond its sanctioned strength. As far as the clerical staff are concerned, the recruitment is made through banking service recruitment board. As far as the sub-staff are concerned only candidates conforming to norms or recruitments sponsored by Employment Exchange are considered for employment. This is to avoid any nepotism, favouritism and able to make the opportunities for employment in a nationalised bank available to those registered with Employment Exchange. The present reference cannot and does not constitute an industrial dispute. In the instant case, Smt. G. Kaveri could not be considered for permanent absorption because she was not sponsored through Employment Exchange. The Respondent/Bank is a public sector bank and it is bound to adhere to the guidelines issued by Government of India in regard to the recruitment in sub-staff cadre. A list of candidates sponsored by Employment Exchange subject to their satisfying the norms relating to age, educational qualification etc. are called for, an interview and the

candidate selected is appointed as permanent part-time sweeper. The claimant union cannot raise this dispute when Smt. G. Kaveri was not sponsored by Employment Exchange. On this ground alone, reference deserved to be rejected in limine. As the permanent part-time sweeper Sri Manickam attached to District Court Extension Counter, Salem was transferred to our Seelanaickenpatti branch in November, 1993, the Respondent/Bank had taken up with Employment Exchange for sponsoring suitable candidates to select temporary sweeper in the place of Sri manickam. As the process took a long time to keep the branch premises clean, the Respondent/Bank had utilised the services of temporary part-time sweepers until a permanent sweeper arrangement was made through Employment Exchange conforming to the norms. Accordingly, the branch had utilised the service of two temporary sweepers namely Smt. L. Kaveri Ammal, W/o. Lakshmanan and Smt. G. Kaveri, W/o Gopal alternatively. The concerned workman Smt. G. Kaveri was employed by the Respondent from 22-11-93 to 24-11-94 without any break is denied. This has to be put to strict proof. As per available records, the services of the two temporary part-time sweepers were utilised alternatively. Hence, the contention of the Petitioner is not valid. As per the Govt. guidelines in force, any permanent vacancy in the subordinate/sweeper cadre can be filled upon only by way of calling for list of candidates from Employment Exchange conforming to our norms and conducting interview by a panel of bank officials. Only those candidates, conforming to norms prescribed by the bank and who secure the required ratings are to be selected and appointed in the permanent vacancies. As the services of Mrs. L. Kaveri Ammal and Mrs. G. Kaveri were utilised, purely on temporary basis, alternatively on rotation, their services were dispensed with, when a permanent employment was made as per rules. Therefore, the Petitioner's Union cannot claim regularisation of her engagement in the Respondent/Bank as a matter of right. Hence, the contention of the Union that the Respondent/Bank had filled up the vacancy by new recruit instead of regularising the services of Smt. G. Kaveri is not tenable. The number of days in which the concerned workman was engaged is disputed and put to strict proof by the Petitioner. The averments in the Claim Statment of the Petitioner Union that the said Smt. Kaveri has been working as sweeper from 6-2-98 till continuously is denied and the Petitioner is put to strict proof of the same. The Petitioner had raised the industrial dispute during 1995 itself. Hence, the claim of the Petitioner is false. The services of Sint. G. Kaveri cannot be utilised any further as it would be against the Govt. guidelines and hence there is no scope to consider him for regular employment. Therefore, it is prayed that this Hon'ble Court may be pleased to make an award rejecting the claim of the Petitioner Union.

4. When the matter was taken up for enquiry, one witness on the side of the I Party/Claimant the concerned

workman Smt. G. Kaveri has been examined as WW1 and 2 documents have been marked as Ex. W1 and W2. On the side of the II Party/Management, no one has been examined as a witness and 4 documents have been marked as Ex. M1 to M4. Learned counsel for the I Party/Claimant has advanced his oral arguments and the learned counsel for the II Party/Management had filed his written arguments.

5. The point for my consideration is :

"Whether the demand of the Indian Overseas Bank Employees Trade Union for regularisation of Smt. Kaveri, Temporary Sweeper, District Court Extension Counter, Salem is justified or not ? If justified, to what relief Smt. Kaveri is entitled ?"

Point :

The I Party/Claimant Indian Overseas Bank Employees Trade Union, Chennai, has raised this industrial dispute against the management of Indian Overseas Bank, Chennai, espousing the cause of the concerned workman employed as a temporary sweeper by the Respondent/Bank demanding regularisation of her service. It is the contention of the Respondent/Management in their Counter Statement that the I Party/Claimant Union cannot raise this industrial dispute, when Smt. G. Kaveri was not sponsored by Employment Exchange. It is admitted by the Respondent/Bank in their Counter Statement that permanent part-time sweeper Sri Manickam attached to the District Court Extension Counter, Salem was transferred to their Seelanaickenpatti branch in November, 1993 and that to keep the branch premises clean till posting a suitable candidate to that post by selecting a temporary sweeper from the candidates sponsored by Employment Exchange, the said bank branch had utilised the services of two temporary sweepers i.e. (1) Smt. L. Kaveri Ammal and (2) Smt. G. Kaveri. It is their further contention that as the services of Smt. L. Kaveri Ammal and Smt. G. Kaveri were utilised purely on temporary basis, alternatively on rotation, their services were dispensed with, when a permanent employment was made as per rules and therefore, the Petitioner Union cannot claim regularisation of her engagement in the Respondent/Bank as a matter of right. The concerned workman as WW1 had deposed that she was working as a sweeper in the District Court Extension Counter of the Respondent Indian Overseas Bank at Salem and she was employed as temporary sweeper in the year 1993 and she was attending the sweeper work continuously for one year and after that one Mr. Sivakasi has joined in the District Court Extension Counter as sweeper, so she was removed from service and that Sivakasi worked as sweeper for three years and he left the service in the year 1997 and she was asked to attend the sweeper work and subsequent to Sivakasi left the service, she was doing the work of sweeper and after she worked for four months, one Mr. Marimuthu was appointed as a sweeper and he worked for four months and after he left the service, she was doing

that sweeper work continuously and she was paid daily wages at the rate of Rs. 20 and was paid on weekly basis. Ex. W1 is the xerox copy of her representation dated 22-8-94 given to the Respondent/Management requesting the Manager to absorb her in service as a permanent employee and she has not received any reply for her representation. It is her further evidence that one Mrs. Lakshmi was subsequently appointment for the sweeper post and as and when Smt. Lakshmi goes on leave, she used to work as a sweeper in the leave vacancy and her Mother-in-Law's name also is Kaveriammal and she is aged at 65 years and she cannot do the work as sweeper and she was doing the work of sweeper, but in the payment voucher, the thumb impression of her mother-in-law Kaveriammal used to be obtained and when she questioned the same, the Branch Manager told that as per the orders of the higher official, her mother-in-law's thumb impression has been obtained in the payment voucher and she requested the Manager of the Bank branch to recommend her name for the sweeper post to the Head Office and hence she requests this Tribunal to pass an award directing the Respondent/Bank management to appoint her as a sweeper in the future vacancy and to regularise her services as a permanent employee of the bank. In the cross examination, nothing has been suggested to WW1 as a denial of her Evidence in Chief that she used to work in the bank in the name of her Mother-in-Law also and for the wages she received, the bank used to get the thumb impression of her Mother-in-Law in the wage payment voucher. No one has been examined on the side of the Respondent/Management to give evidence to deny the evidence of WW1 as false with regard to her employment in the District Court Extension Counter of the bank branch at Salem. From the plea and materials available in this case, it is seen that from the time when the permanent part-time sweeper Sri Manickam attached to District Court Extension Counter has been transferred from the place, the concerned workman Smt. G. Kaveri had been continuously working as temporary part-time sweeper by her name as well as by the name of her Mother-in-Law, Smt. Kaveriammal and was getting wages of the Respondent/Bank. For the plea of the Respondent/Management in their Counter Statement that the concerned workmen Smt. G. Kaveri and Smt. L. Kaveriammal were engaged by the Respondent/Bank branch of District Court Extension Counter at Salem on rotation basis as temporary part-time sweepers, no supporting oral or documentary evidence has been filed before this Tribunal. It is not the contention of the Respondent/Management that the concerned workman Smt. G. Kaveri never worked as temporary part-time sweeper in the District Court Extension Counter branch of the Respondent/Bank at Salem. The documents filed on the side of the Respondent/Management as Ex. M1 to M4 support the evidence given by WW1 in respect of her employment as part-time sweeper in her name as well as in her Mother-in-Law's name. From the statements/

documents filed by the Respondent/Management as Xerox copies Ex. M1 and M3, it is seen that the Respondent/Management has engaged the temporary part-time sweeper for a total period of 626 days. Except filing Ex. M3 statement and other vouchers that the Mother-in-Law of the concerned workman Smt. G. Kaveri has been engaged on rotation basis as temporary part-time sweeper in District Court Extension Counter at Salem, no supportive evidence worth considering has been let in by the Respondent/Management to disprove the version of WW1 in her evidence that she alone has been working in that branch both in her name as well as in her Mother-in-Law's name Kaveriammal. So under such circumstances, it is seen that the concerned workman Smt. G. Kaveri has been engaged as temporary part-time sweeper continuously in the Respondent/Bank branch of District Court Extension Counter at Salem. While engaging her so, the Respondent/Bank has not denied her engagement stating that she is not a person sponsored by Employment Exchange for giving that work and she is not coming under the eligibility criteria. Ex. W1 is the xerox copy of the letter given by the concerned workman Smt. G. Kaveri to the Respondent/Bank management, wherein she has stated that she is working in the bank branch ever since 21-11-1993 without any break and her services may be regularised. Ex. W2 is the xerox copy of the communication dated 24-8-94 sent by Regional Office to the Assistant Manager-in-charge, Indian Overseas Bank, District Court Extension Counter, Salem advising him to forward his comments on the application through Senior Manager, Salem Main Branch regarding her work at the Extension Counter and for that letter the Branch Manager has chosen to send a reply dated 25-8-94 and the xerox copy of the has been filed by the Petitioner Union, wherein, the Branch Manager has stated that he strongly recommended to consider the request of the concerned workman as the bank is suffering for want of permanent sweeper for the past one and half years.

6. It is not disputed that clause 18.8 of Bipartite Settlement dated 14-12-66 states that a temporary workman may also be appointed to fill up a permanent vacancy, provided that such a temporary appointment shall not exceed a period of three months and during which period, the bank shall make arrangement for filling up the vacancy. As per the available materials, it is seen that the Respondent/Bank management had not taken action to fill up the permanent vacancy within three months of the same falling vacant and only after one year, after utilising the services of a temporary employee, Smt. G. Kaveri, the Respondent/Bank management has appointed a new person through Employment Exchange. It is not disputed that the concerned workman has not been selected for this post of sweeper in District Court Extension Counter in a permanent vacancy as a candidate sponsored through Employment Exchange. Further by working as a temporary

sweeper, the concerned workman cannot get an automatic right for being employed in the permanent vacancy as a part-time sweeper. Under such circumstances, it can be held that the demand of the Indian Overseas Bank Employees Trade Union, the Petitioner Union for regularisation of the concerned workman Smt. G. Kaveri, temporary sweeper, District Court Extension Counter at Salem is not justified and hence the concerned workman Smt. G. Kaveri is not entitled for regularisation of her service. Thus, the point is answered accordingly.

7. In the result, an Award is passed holding that the demand of the I Party/Claimant Indian Overseas Bank Employees Trade Union on behalf of the concerned workman Smt. G. Kaveri is not justified. Hence, the concerned workman is not entitled for regularisation of service, as claimed by the I Party/Claimant Union, but considering the fact that the concerned workman Smt. G. Kaveri is engaged by the Respondent/Bank as a temporary sweeper continuously for nearly one and half years, preference may be given to the concerned workman, subject to her eligibility, when the Respondent/Bank appoints some workman in the next arising vacancy in the post of part-time sweeper. No Cost.

[Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th December, 2002].

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :—

For the I Party/Claimant : WW1 Smt. G. Kaveri

For the II Party/Management : None

Documents Exhibited :—

For the I Party/Claimant :—

Ex. No.	Date	Description
W1	22-8-94	Xerox copy of the representation given by Concerned workman to Respondent/Bank.
W2	24-8-94	Xerox copy of the letter from Regional Office of Respondent/Bank to Salem DCEC branch.

For the II Party/Management :—

Ex.No.	Date	Description
M1	Nil	Xerox copy of the statement showing details of days worked by the concerned workman.
M2	Nil	Xerox copy of the vouchers showing details of cash paid to concerned workman.
M3	Nil	Xerox copy of the statement showing details of days worked by Ms. L. Kaveri Ammal.

M4 Nil Xerox copy of the vouchers showing details of cash paid to L.Kaveri Ammal.

नई दिल्ली, 31 जनवरी, 2003

का. आ. 586.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, इण्डियन ओवरसीज बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 648/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2003 को प्राप्त हुआ था।

[सं. एल-12012/255/1998-आई.आर.(बी-II)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st January, 2003

S.O. 586.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 648/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of Indian Overseas Bank and their workman, which was received by the Central Government on 30-01-2003.

[No. L-12012/255/1998-IR(B-II)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 17th December, 2002

PRESENT:

K. KARTHIKEYAN,
Presiding Officer

INDUSTRIAL DISPUTE NO. 648/2001

(Tamil Nadu Principal Labour Court CGID No. 175/99)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Sri S. Selvaraj and the Management of Indian Overseas Bank, Chennai.]

BETWEEN:

Sri S. Selvaraj : I Party/Workman

AND

The Chairman-cum-
Managing Director,
Indian Overseas Bank,
Chennai. : II Party/Management

APPEARANCE :

For the Workman : Mr. C. R. Chandrasekaran,
& N. Krishnakumar, Advocates

For the Management : M/s. N. G. R. Prasad,
S. Sathishkumar, Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned Industrial dispute for adjudication vide Order No. L-12012/255/98/IR(B-II) dated 16-02-99.

This reference has been made earlier to the Tamil Nadu Principal Labour Court, Chennai, where the same was taken on file as CGID No. 175/99. When the matter was pending enquiry in that Principal Labour Court, the Government of India, Ministry of Labour was pleased to order transfer of this case also from the file of Tamil Nadu Principal Labour Court to this Tribunal for adjudication. On receipt of records from that Tamil Nadu Principal Labour Court, this case has been taken on file as I. D. No. 648/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 19-10-2001 with their respective parties and to prosecute this case further. Accordingly, the learned counsel on either side along with their respective parties have appeared and prosecuted this case further. The Claim Statement and Counter Statement of either side were filed earlier before the Tamil Nadu Principal Labour Court, Chennai, when the matter was pending there for adjudication.

Upon perusing the Claim Statement, Counter Statement, the documentary evidence let in on either side, the other material papers on record, the written arguments filed by the learned counsel for the II Party/Management and after hearing the arguments advanced by the learned counsel for the I Party/Workman, and this matter having stood over till this date for consideration, this Tribunal has passed the following :—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :—

“Whether the management of Indian Overseas Bank is justified in dismissing Sri S. Selvaraj, Clerk/Shroff/Typist from the services of the bank w.e.f. 19-8-1994 and if not, to what relief the workman is entitled.”

2. The averments in the Claim Statement of the I Party/workman Sri S. Selvaraj (hereinafter refers to as Petitioner) are briefly as follows :—

The Petitioner is a workman employed in the II Party/Management Indian Overseas Bank having been appointed

on 17-1-82 as clerk/shroff/typist after BSRB having found him qualified in all respects. He was working in Tiruvarur Branch of the bank, when the bank unfairly issued him a charge sheet cum suspension order on 10-4-93 on the basis of false information and complaint that one Mrs. Madeena Beevi, holder of SB account No. 12255 came to the branch for encashment of a cheque No. 393265 dt. 29-4-91 for Rs. 1000 drawn on SBI, Tiruvarur in favour of Mrs. E. Fatimapurveen and at that time the Petitioner had misled her that the cheque is crossed account payee and for collection of the same will take ten days time and the Petitioner had arranged a sum of Rs. 1000 to Mrs. Madeenabeevi from Mrs. Rasoolabeevi who is the account holder of SB 11195 and also the sister of Mrs. Madeenabeevi stating that the proceeds of the SBI cheque will be placed to her credit and the Petitioner had dishonestly and fraudulently collected the cheque through the current account of M/s. Lakshmi Stores and obtained payment of Rs. 1000 on 7-5-91 from the proprietary concern M/s. Sri Lakshmi Stores and misappropriated the amount. The bank had conducted a farce of an enquiry on 12-10-93, 24-3-94 and 25-3-94 and examined 5 witnesses besides 19 documents have been marked. When the management's case came to a close and the Petitioner did not offer himself as a witness, the Enquiry Officer should have generally questioned him about the evidence tendered by MW1 to MW5 and the documents introduced on behalf of the management. He did not do any such thing but simply accepted the evidence of the management witnesses. He did not seem to be concerned of the fact that the claimant was unfamiliar with the proceedings of the domestic enquiry and therefore, he did not cross-examine any of the witness. This being so, although the Enquiry Officer is not supposed to take the mantle of a defence representative and cross-examine them, he should have questioned them generally on their depositions in chief and on documents. The Disciplinary Authority and Appellate Authority have failed to notice the fact that the transaction was done in good faith and transparently without hiding anything and that he acted at the worst only as an agent to the account holder i.e. MW4 but not as an employee of the bank. This apart complaint ME 6 speaks about the non-payment of loan by him but not of any alleged dishonest or fraudulent collection of cheque and misappropriation thereof. If his intention was to cheat the customer he would have resorted to various other methods without involving himself directly but still would have got appropriated this sum to his benefit. The Petitioner belong to clerical cadre drawing monthly salary of around Rs. 5000. He has introduced many accounts to branch and other branches and have a good rapport with bank's clients. Still the bank has without considering his record, has chosen to dismiss him for his mere availment of loan of Rs. 1000 from one of his family friends i.e. ME4 alleging that he had wilfully damaged the property of the bank and had acted prejudicial to the interest of the bank. The details of the transactions and the clauses

invoked i.e. 17.5(d) and 17.5(j) of Bipartite Settlement dated 14-12-66 have no nexus. The Petitioner was not a member of the union and hence, he could not get the assistance of a defence representative and therefore, he had defended himself at the enquiry. As he was not vested with the knowledge of defending himself in the enquiry, he could not point out the defective nature of conduct of enquiry violating the principles of natural justice. The entire episode is only a question of borrowing of Rs. 1000 from the sisters who are witnesses at the enquiry and who happened to be his family friends which he could not repay earlier. Had it not been due to the fact that the Enquiry Officer/Disciplinary Authority has particular been bent upon landing him down with the order of dismissal, the Enquiry Officer/Disciplinary Authority as well as Presenting Officer would not have concocted the entire episode as if he sought to misappropriate the funds of the customers. The attitude of the Enquiry Officer and Disciplinary Authority and the Presenting Officer is evident as it could be seen from the letter supposed to have been written by MW4 marked at the enquiry as ME6 from the fact that this letter was asked to spoken to by MW5 who has nothing to do with it, thus violating the elementary principle that no document can be put to any witness who has not authored or received it. The Enquiry Officer has omitted to take into account the fact that the third party cheque i.e. the cheques drawn not in favour of the account holder cannot be lodged in any SB account and that is why the cheque was lodged in the current account of M/s. Lakshmi Stores. Had he gone into this aspect atleast the fact that the transaction is nothing to do with misappropriation and that it was a case of borrowal which the Petitioner did not reportedly repay earlier. The depositions of MW 4 and 5 were recorded in English. Nowhere is there a statement at the enquiry that the depositions were read to MW 4 and 5 in Tamil before securing their signatures in proceedings relating to their depositions. This is basic error and in violation of natural justice. Hence it is prayed that this Hon'ble Tribunal may be pleased to pass an award holding that the Respondent/Bank is not justified in dismissing the Petitioner from the services of the bank w.e.f. 19-8-94 and consequently direct the Respondent/Bank to reinstate the Petitioner into services of the bank with all attendant benefits.

3. The averments in the Counter Statement filed by the II Party/Management, Indian Overseas Bank, Chennai, (hereinafter refers to as Respondent) are briefly as follows :—

The Petitioner was employed as Clerk/Shroff/Typist in the Respondent/Bank. One Mrs. Madeena Beevi holder of SB Account No. 12255 came to Tiruvarur branch for encashment of cheque No. 393265 dated 29-4-91 for Rs. 1000 drawn on SBI Tiruvarur in favour of Ms. E. Fatima Parveen. At that time, Sri S. Selvaraj has misled her that the cheque is crossed 'account payee' and that collection of

the same will take 10 days time. Sri S. Selvaraj had arranged a sum of Rs. 1000 to Mrs. Madeena Beevi from Ms. Rasool Beevi, who was an account holder of SB A/c. No. 11195 of the same branch and also the sister of Mrs. Madeena Beevi stating that the proceeds of the SBI cheque will be placed to her credit. Sri S. Selvaraj had dishonestly and fraudulently collected the said cheque through the current account of M/s. Sri Laxmi Stores. He also obtained the payment of Rs. 1000 on 7-5-91 from the proprietary concern of M/s. Sri Laxmi Stores and also misappropriated the amount. As the acts committed by Sri S. Selvaraj amounted to misconduct in terms of clause 17.5(d) and 17.5(j) of Bipartite Settlement dt. 14-12-66 between the bank and its workman, Sri S. Selvaraj was charge sheeted and suspended by the Disciplinary Authority on 10-4-93 and a charge sheet was issued to him on the said date. Sri S. Selvaraj did not submit any reply to the charge sheet. Hence, an enquiry into the charges was held on 12-10-93 when the dismissed employee appeared and received the list of documents and management witnesses. He took time from the Enquiry Officer to consult his union office bearers for naming a defence representative to defend him in the enquiry. At his request, the enquiry was adjourned. Subsequently, the enquiry was held on 24-3-94 and 25-3-94 and concluded. In the enquiry, 5 management witnesses were examined and 19 exhibits were marked on behalf of the management. The Petitioner Sri S. Selvaraj neither introduced any witness nor any documents on his side. On conclusion of enquiry, the management as well as defence were given time to submit their written brief. The Presenting Officer submitted his written brief on behalf of the management and the Petitioner also submitted his defence brief. After going through the entire records of the case, the Disciplinary Authority found that all the charges levelled against the Petitioner were proved and therefore, he issued a show cause notice on 22-7-94 to him enclosing a copy of findings, and proposing to award the punishment of dismissal from bank service in terms of para 17.6(a) of the Bipartite Settlement dt. 14-12-66. The Petitioner was also given a personal hearing on 12-8-94. As the Disciplinary Authority found that all the charges were proved, he passed an original order dt. 19-8-94 awarding to Petitioner the punishment of dismissal from the bank service with immediate effect. The Petitioner preferred an appeal dated 5-9-94 against the order of Disciplinary Authority. The Appellate Authority also gave a personal hearing to the Petitioner on 31-10-94. After hearing the Petitioner and after going through the entire records of the case including written representation dated 31-10-94 submitted by the Petitioner in the personal hearing, the Appellate Authority passed an order dated 10-11-94 dismissing his appeal. The punishment order dated 19-8-94 passed by the Disciplinary Authority and order dated 10-11-94 of the Appellate Authority confirming the order of the Disciplinary Authority are perfectly legal, valid and binding on the Petitioner. It is incorrect to state that the charge sheet issued to Petitioner

was unfair and that the same was issued on the basis of false information and complaint. Investigation conducted by the bank into the matter revealed gross misconduct on the part of the Petitioner and hence the bank rightly issued the charge sheet cum suspension order on 10-04-93. The averment that the enquiry conducted by the bank on 12-10-93, 24-3-94 and 25-3-94 is farce is denied. The enquiry proceedings were held in a fair and proper manner following all principles of natural justice. The Petitioner also did not let in any evidence to prove his contention that Rs. 1000 mentioned under the charge sheet was only a loan taken from Mrs. Madeena Beevi. In the absence of any proof, it is not open to the Petitioner to take up such a stand. The so called theory of loan from Mrs. Madeena Beevi is only an after thought. There was no question of truth being twisted by the Respondent/Management. There was also proof in the enquiry beyond all reasonable doubt that the Petitioner used the cheque without the knowledge of Mrs. Madeena Beevi. It is absolutely false to state that the complaint letter given by Mrs. Madeena Beevi was written by some bank official and the signature of Mrs. Madeena Beevi was obtained thereon. It was established in the enquiry from the evidence of witnesses on the management side and through documentary evidence that the Petitioner misappropriated the proceeds of the cheque. In the enquiry, Mrs. Madeena Beevi had given evidence categorically stating that the Petitioner while accepting the cheque for Rs. 1000 drawn in favour of E. Fatima Parveen had assured to get it collected and place the amount to her credit in her SB account but he failed to do the same and misappropriated the amount. The alleged letter dated 25-2-98 said to have been given by Mrs. Madeena Beevi was never introduced in the enquiry and it also does not form part of enquiry proceedings. Hence no reliance can be placed on the same. It appears that the Petitioner prevailed upon Mrs. Madeena Beevi to give such letter to escape from the charges proved against him. The alleged letter is also an afterthought. No credence can be attached to the said letter as it was never introduced in the enquiry. At this stage, the said letter cannot be admitted in evidence. The proceedings of the enquiry would clearly establish that though adequate opportunity was given to the Petitioner to cross-examine the witnesses on the management side, he chose not to cross-examine them, which is evident from the depositions of the witnesses. After having failed to avail the opportunity, the Petitioner cannot at this late stage shift his duty on the Enquiry Officer to cross examine the witnesses. It is absolutely false to state that the Petitioner was unaware of the procedure of the enquiry. Nothing prevented the Petitioner to bring his own defence representative to cross examine the witnesses in the management side for which ample opportunity was given to him by the Enquiry Officer during the enquiry. It is denied that the past record of the Petitioner was not taken into consideration by the Disciplinary Authority while awarding the punishment. The Petitioner was previously charge sheeted on 19-3-92 and

awarded the punishment of warning for committing various misconducts. He was awarded punishment of stoppage of 5 increments on 18-3-93 for committing serious misconduct. The Disciplinary Authority took all these into consideration while awarding the punishment of dismissal from service. Therefore, there are no justifiable grounds to reinstate the Petitioner into bank's service. By misappropriating a sum of Rs. 1000 belonging to customer, the Petitioner has caused wilful damage to the property of the customer. Hence 17.5(d) is directly attracted. The bank employees are dealing with customers money and they should maintain honesty and high integrity while discharging duties in the bank. By misappropriating a sum of Rs. 1000 belonging to customer, the Petitioner has acted prejudicially to the interest of the bank. Hence, 17.5(j) of Bipartite Settlement is directly attracted. Hence, it is absolutely incorrect to state that the acts committed by the Petitioner did not attract the provisions of Bipartite Settlement. There was absolutely no evidence in the enquiry to establish that the said amount represented a loan taken by him from Mrs. Madeena Beevi. It is denied that the Enquiry Officer and Presenting Officer were bent upon handing him down with the order of dismissal. As the charges proved against the Petitioner was serious in nature showing moral turpitude on his part, the Disciplinary Authority rightly awarded the punishment of dismissal to the Petitioner. The Disciplinary Authority rightly accepted their evidence and came to the conclusion that the charges framed against the Petitioner was established. The Petitioner is guilty of charges of misappropriation and it shows moral turpitude on his part. There is no justification or reason to reinstate him into bank's service. The punishment of dismissal awarded to him is commensurate with the gravity of the charges proved against the Petitioner. The past record of the Petitioner was also bad. There are no grounds for setting order of dismissal dated 19-8-94 passed against the Petitioner. There are also no justifiable grounds to reinstate him into bank's service. The disciplinary proceedings against the Petitioner were held by the bank in a fair and proper manner following all principles of natural justice. If for any reasons, the Hon'ble Tribunal comes to a conclusion that the enquiry was not conducted in a fair and proper manner, the Respondent/Bank prays that this Hon'ble Tribunal may give an opportunity to the Respondent/Bank to let in oral as well as documentary evidence. Hence, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the claim of the Petitioner with costs.

4. When the matter was taken up for enquiry, no one has been examined as a witness on either side. 8 documents have been marked on the side of the I Party/ Workman as Ex. W1 to W8 and on the side of the Respondent/Management 29 documents have been marked as Ex. M1 to M29. The argument advanced by the learned counsel on either side was heard.

5. The Point for my consideration is—

“Whether the management of Indian Overseas Bank is justified in dismissing Sri S. Selvaraj, Clerk/Shroff/Typist from the services of the bank w.e.f. 19-8-1994 and if not what relief the workman is entitled?”

Point :

It is admitted that the I Party/Workman Sri S. Selvaraj was last working at Tiruvarur branch of the Respondent/Bank as Clerk and he was dismissed from service on 19-4-94 in respect of charge sheet dated 10-04-93 and the same was also confirmed in the appeal by the Appellate Authority on 10-11-94. Xerox copy of Ex W1/M1 dated 10-04-93 is the 2nd additional charge sheet cum suspension order given by the Respondent/Bank to the Petitioner/Workman Sri S. Selvaraj. It is alleged in the charge memo that the Petitioner Sri S. Selvaraj has committed an act of misappropriation of a Cheque dated 29-4-91 for a sum of Rs. 1000 brought by one Mrs. Madeena Beevi, a constituent of the bank drawn in favour of Mrs. E. Fatimapurveen. It is alleged that Sri S. Selvaraj, the Petitioner/Workman had misled Mrs. Madeena Beevi to believe that cheque dated 29-4-91 is an account payee cheque which has got to go through her account and the same would take ten days time for encashment and as Mrs. Madeena Beevi was in urgent need of Rs. 1000 Sri S. Selvaraj had told that Mrs. Rasoolbeevi, sister of Mrs. Madeena Beevi with Account No. SB 11195 could draw an amount and can help her sister Mrs. Madeena Beevi and that Sri S. Selvaraj also promised Rasoolbeevi that the cheque proceeds which was drawn in favour of Fatima Purveen would be deposited in Rasoolbeevi's account and that as advised by Sri S. Selvaraj Mrs. Rasoolbeevi drew a withdrawal slip for 3000 from her account and gave Rs. 1000 to Mrs. Madeena Beevi and that Sri S. Selvaraj instead of depositing the cheque of Rs. 1000 which was brought by Mrs. Madeena Beevi into Rasool Beevi's account very cleverly gave the cheque to the proprietor of M/s. Sri Lakshmi Stores who is also having current account No. 495 in the bank and requested him to put it into his account and took Rs. 1000 from him and misappropriated that money and therefore, a sum of Rs. 1000 which should have been gone in Rasool Beevi's account was cleverly manipulated by the Petitioner Sri S. Selvaraj and he misappropriated the same. For the charge memo, the Petitioner Sri S. Selvaraj has not given any reply, though he was given an opportunity. Ex. W2/M2 is the Xerox copy of the change of caption to charge sheet under Ex. W1/M1. Ex.M3 is the xerox copy of the letter dated 16-9-93 sent to the Petitioner informing him about the date of enquiry as 12-10-93 enclosing a list of documents and witnesses proposed to be relied upon by the management and directing him to pursue the list of documents at Tiruvarur branch in the presence of an officer. Ex. W3/M4 and M5 are the Xerox copies of enquiry proceedings. Ex. M18 to M29 are the Xerox copies of documents relied upon by the Respondent/

Management in the domestic enquiry. It is seen from enquiry proceedings that in the enquiry to establish the charge levelled against the charge sheeted employee, the Petitioner herein, the management has examined 5 witnesses and produced 19 documents as exhibits. It is seen from enquiry proceedings that the Petitioner though he has given an opportunity to have the assistance of defence representative, he did not choose to have one such defence representative assistance and he has not also examined any witness and not marked any document on his side. Ex.M6 is the written submission dated 9-6-94 submitted by the Petitioner as his reply to enquiry proceedings. Ex.M7 is the xerox copy of the findings of the Enquiry Officer. A perusal of Ex.M7 shows that after considering the oral and documentary evidence let in before him, the Enquiry Officer has come to a conclusion after taking into consideration of the reply given by the charge sheeted employee, that the charges contained in the charge sheet against the charge sheeted employee are proved in toto. On submission of the findings of the Enquiry Officer, the Disciplinary Authority has sent a letter dated 22-7-94 to the Petitioner as show cause notice and a notice of personal hearing proposing punishment of dismissal. The xerox copy of the same is Ex. W4/M8. Ex. W5/M9 is the xerox copy of the proceedings of the personal hearing conducted by the Disciplinary Authority dated 12-8-94. The Disciplinary Authority after affording an opportunity of personal hearing to the Petitioner, charge sheeted employee, has passed his final order dated 19-8-94 imposing the punishment of dismissing the Petitioner from bank's service with immediate effect without notice in terms of para 17.6(a) of Bipartite Settlement dated 14-12-1966. The xerox copy of the same is Ex. W6/M10. Against the order of dismissal passed by the Disciplinary Authority, Petitioner/Workman has preferred an appeal to the Appellate Authority. Sri S. Ganesan, the Deputy General Manager and has requested him to give personal hearing by letter dated 5-9-94. The xerox copy of that letter is Ex. M11. For that letter, the Deputy General Manager, Sri K. Rajagopal, the Appellate Authority sent a reply to the Petitioner dated 7-10-94 stating that personal hearing will be given to him on 28-10-94 at 3.30 pm in the New Building, 763 Anna Salai, Madras. The xerox copy of that letter is Ex. M12. Then a telegram has been sent to Petitioner informing him that personal hearing date has been changed to 31-10-94. The xerox copy of the telegram is Ex. M13. Then on 31-10-94, the Petitioner Sri S. Selvaraj has given a written representation to the Appellate Authority. The xerox copy of the same is Ex. W7/M14. The Appellate Authority passed an order dated 10-11-94 dismissing the appeal of the Petitioner. The xerox copy of the same is Ex. W8/M15. Ex.M16 is the xerox copy of the postal acknowledgement for the communication sent by Chief Officer (Vigilance Deptt.) Central Office which has been received by the Petitioner at his residential address at Madhapuram, Tiruvarur. A perusal of all these documents clearly shows that after giving all opportunity,

the Petitioner was dismissed from service and in the departmental appeal also, he was given personal hearing before the Appellate Authority and the Appellate Authority after considering the entire materials, on merits, has dismissed the appeal. From this, it is seen that a fair and proper enquiry was conducted against the delinquent employee, the Petitioner herein and after giving sufficient opportunity to defend himself effectively, it was found by the Enquiry Officer and also Disciplinary Authority as well as Appellate Authority that the charges levelled against him had been established. From the available materials in this case it is seen that the charges levelled against the delinquent employee, the Petitioner herein, has been proved with sufficient oral and documentary evidence by the management before the Enquiry Officer. From that, it is evident that because of the conduct of the Petitioner Sri S. Selvaraj, the bank employee which reflects his dishonesty and thereby it resulted in a loss to the constituent. The learned counsel for the Respondent/Management would put forth an argument that the Hon'ble Supreme Court in its two latest judgements reported as 1996 II LLN 881 MUNICIPAL COMMITTEE, BAHADUR GARH *Vs.* KRISHNA BEHARI AND OTHERS and 1998 (3) LLN 89 UNION BANK OF INDIA *Vs.* VISWA MOHAN has held that *"in banking business absolute devotion, diligence and integrity need be preserved by every bank employee and if this is not observed confidence of the depositors would be impaired and that bank employee found guilty of the charge of misappropriation cannot be retained in bank's service and the appropriate punishment for them is only dismissal from bank's service and any sympathy shown to them is totally opposed to public interest"* and that the dismissed employee having been found guilty of the serious charge of misappropriation of customer money was therefore, rightly awarded the punishment of dismissal from bank service.

6. The learned counsel for the Petitioner/Workman would argue that the findings of the Enquiry Officer is perverse and there is no positive evidence to establish the alleged charge of misappropriation that it was a private transaction and Mrs. Madeena Beevi was not put to any loss, as she has received the amount from her sister that day itself and there is no question of reimbursing Mrs. Madeena Beevi who has not incurred any loss on account of any or any indebted banking transaction. For the collection of cheque for Rs. 1000 it was placed in M/s. Sri Lakshmi Stores current account and the claimant/ Petitioner collected the amount from M/s. Sri Lakshmi Stores proprietor and there is no question of misappropriation involved and that it is only treated as a private loan advanced to the claimant/ Petitioner. If that being so, the claimant, Petitioner/Workman would not have failed to give one such reply to the charge sheet issued to him immediately. As per Ex. M6 his explanation to Enquiry Officer's report, the Petitioner has stated that on that date

when he was entrusted the cheque in question, he was in deposit section and not in S.B. section and at that time, he suffered a lot and incurred medical expenses for his wife and Mother. So, he received the amount to meet the medical expenses for his wife and Mother and after encashing the cheque, he informed them that the amount was urgently needed and used by him and he assured that he will repay the amount either from his salary or after sometime, but due to some family difficulties, he could not repay the amount in time. So from this, it is evident that at the time of entrusting the cheque, the Petitioner has not got the consent of the person concerned to utilise the amount of Rs. 1000 for his own use and took that amount as loan and even by his own version, he took that amount first and then only he has informed the same that he has availed that amount as loan. From this, it cannot be said that the amount has been advanced to him by the person concerned as the loan to the Petitioner for his urgent need to meet the medical expenses of his wife and mother. That version of the Petitioner can only be an afterthought for escaping from the liability of the charges. So under such circumstances, it cannot be said that it is a perverse finding of the Enquiry Officer on which the Disciplinary Authority as well as the Appellate Authority has acted upon and it is incorrect.

7. It is the further argument of the learned counsel for the Petitioner that though the Appellate Authority and Disciplinary Authority have taken into account the claimant/ Petitioner's past record in their orders, without giving him an opportunity to express his defence and for this, the learned counsel for the Petitioner has relied upon the judgement reported as 1993 II LLJ 527 decided by the High Court of Karnataka in a case between B. NAGARAJU and KARNATAKA STATE ROAD TRANSPORT CORPORATION AND ANOTHER. In that case, the High Court has held that *"if the past record of the conduct has a bearing on the severity of penalty to be imposed, before it is taken into consideration, the delinquent must be given an opportunity to put forth his say. Without affording an opportunity to delinquent, it would not be permissible to reply upon the past conduct of the delinquent officer because it is will accepted principles of natural justice that no person can be condemned without affording an opportunity to put forth his say"*. Here in this case, from the materials available, it is seen that there is sufficient evidence available in the domestic enquiry itself to prove that the Petitioner has acted in a manner as a bank employee in the banking business without absolute devotion diligence and integrity which is to be preserved by every bank employee, and the failure of the same caused the depositors losing confidence in the banking business of the Respondent/Bank. So, considering the past record of the Petitioner/Workman by the Respondent/Management for imposing the punishment of proved misconduct, it is not very much necessary even then the Respondent/

Management has considered the past record only to consider awarding lesser punishment than the capital punishment. Since the past record of the Petitioner/Workman is not very much appreciable the Respondent/Management was obliged to consider the same along with the proved misconduct of the Petitioner/Workman in awarding the punishment of the same. When the charge is about misappropriation of the depositor's money, as it is held by the Supreme Court in its decisions that Petitioner's retention in banking service is opposed to public interest and the appropriate punishment for the same is only dismissal from bank's service. Under such circumstances, it can be held that the management of Indian Overseas Bank is justified in dismissing the Petitioner/Workman Sri S. Selvaraj, Clerk/Shroff/Typist from the services of the bank and the concerned workman is not entitled for any relief. Thus, the point is answered accordingly.

8. In the result, an Award is passed holding that the action of the management of Indian Overseas Bank is justified in dismissing Sri S. Selvaraj, Clerk/Shroff/Typist from the services of the bank with effect from 19-8-1994. Hence, the concerned workman is not entitled for any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th December, 2002.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None

Documents Exhibited :

For the I Party/Claimant : Nil

<i>Ex. No.</i>	<i>Date</i>	<i>Description</i>
W1	10-04-93	Xerox copy of the charge sheet issued to Petitioner.
W2	20-05-93	Xerox copy of the letter from Disciplinary Authority to Petitioner intimating the change of caption of Charge sheet.
W3	12-10-93 24-03-94 & 25-03-94	Xerox copy of the enquiry proceedings.
W4	22-07-94	Xerox copy of the show cause notice issued by Disciplinary Authority to Petitioner.
W5	12-08-94	Xerox copy of the proceedings of personal hearing.
W6	19-08-94	Xerox copy of the order of dismissal passed by the Disciplinary Authority against the Petitioner.
W7	31-10-94	Xerox copy of the appeal preferred by Petitioner.

W8 10-11-94 & 14-11-94 Xerox copy of the order of Appellate Authority.

For the II Party/Management :

<i>Ex. No.</i>	<i>Date</i>	<i>Description</i>
M1	10-04-93	Xerox copy of the charge sheet cum suspension order issued to Petitioner.
M2	20-05-93	Xerox copy of the letter from Disciplinary Authority to Petitioner.
M3	16-09-93	Xerox copy of the letter from Disciplinary Authority to Petitioner fixing date of hearing.
M4	12-10-93	Xerox copy of the proceedings of enquiry.
M5	24-03-94	Xerox copy of the proceedings of enquiry.
M6	09-07-94	Xerox copy of the written brief submitted by Petitioner
M7	Nil	Xerox copy of the Enquiry Officer's report
M8	22-07-94	Xerox copy of the show cause notice issued by Disciplinary Authority to Petitioner.
M9	12-08-94	Xerox copy of the proceedings of personal hearing.
M10	19-08-94	Xerox copy of the order of punishment passed by Disciplinary Authority.
M11	05-09-94	Xerox copy of the appeal preferred by Petitioner.
M12	07-10-94	Xerox copy of the notice issued by Appellate Authority to Petitioner fixing date of personal hearing.
M13	21-10-94	Xerox copy of the telegram issued by Appellate Authority to Petitioner.
M14	31-10-94	Xerox copy of the written representation made by Petitioner to Appellate Authority.
M15	10-11-94	Xerox copy of the Appellate Authority's order.
M16	21-11-94	Xerox copy of the postal acknowledgement received from Petitioner.
M17	25-01-93	Xerox copy of the investigation report of Sri P. Ganesan, RO Nagapattinam with enclosures.
M18	Nil	Xerox copy of the attendance register of Tiruvarur Branch.

M19		Xerox copy of the attendance register of Tiruvarur Branch.
M20	19-06-84	Xerox copy of the S.B. a/c. opening form No. 12255.
M21	Nil	Xerox copy of the specimen signature sheet.
M22	07-05-91	Xerox copy of the clearing register.
M23	07-05-91	Xerox copy of the paying counter cash book.
M24	Nil	Xerox copy of the current account ledger folio of M/s. Sri Lakshmi Stores.
M25	14-02-83	Xerox copy of the SB a/c. opening form of A/c. 11195.
M26	Nil	Xerox copy of the specimen signature sheet of S.B. A/c.
M27	15-05-91	Xerox copy of the withdrawal slip S.B. A/c. 11195 of Ms. Rasool Beevi.
M28	25-01-93	Xerox copy of the debit suspense voucher for Rs. 1000.
M29	25-01-93	Xerox copy of the memo from RO Nagapattinam to Tiruvarur Branch.

नई दिल्ली, 31 जनवरी, 2003

का. आ. 587.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, विशाखापटनम पोर्ट ट्रस्ट के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 182/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2003 को प्राप्त हुआ था।

[सं. एल-34011/5/2000-आई.आर.(एम)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 31st January, 2003

S.O. 587.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 182/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the annexure in the Industrial Dispute between the employers in relation to the Management of Visakhapatnam Port Trust and their workman, which was received by the Central Government on 30-01-2003.

[No. L-34011/5/2000-IR(M)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT
HYDERABAD

PRESENT :

SHRI E. ISMAIL,
Presiding Officer

Dated 30th day of November, 2002

INDUSTRIAL DISPUTE No. 182/2002

(Old I.D. No. 26/2000 transferred from Industrial
Tribunal-cum-Labour Court, Visakhapatnam)

BETWEEN

The General Secretary,
Janata Port & Dock Employees' Union,
D.No. 21-30-18, Punjab Junction,
Chengalarao Peta,
Visakhapatnam.Petitioner

AND

The Chairman,
Visakhapatnam Port Trust,
Visakhapatnam (A.P.)-530035Respondent

APPEARANCES :

For the Petitioner : M/s G. Vidya Sagar, Smt. K. Udaya
Sree, P. Sudheer Rao and
Madusudhan, Advocates

For the Respondent : M/s K. Srinivasa Murthy, V. Uma
Devi, C. Vijaya Shekar Reddy and
G. Praveen, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-34011/5/2000/IR(M) dated 27-7-2000 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to the Industrial Tribunal-cum-Labour Court, Visakhapatnam between the management of Visakhapatnam Port Trust and their workman. In view of Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C.II) dated 18-10-2001 this case has been transferred to this Tribunal bearing No. 26/2000. The reference is,

SCHEDULE

"Whether the action of the management of Visakhapatnam Port Trust in classifying the post of 'Tindal' in Marine Department as Class IV instead of Class III as has been done in case of Tindels in Traffic

Department while giving similar pay scales as challenged by the Janata Port & Dock Employees' Union, Visakhapatnam is legal and justified? If not, to what relief the concerned Union is entitled?"

The reference numbered in this Tribunal as I.D. No. 182/2002 and notices issued to the parties.

2. The following averments are made in the claim statement. Both the departments Marine and Traffic are under one management, Visakhapatnam Port Trust, Visakhapatnam. The pay scales of Tindel in both the Departments are identical, that is Rs. 2065-60-2545-70-3315, i.e. both are identical scales. Categorization of a cadre in Visakhapatnam Port Trust into Class I, Class II, Class III and Class IV. Class IV is determined on the scales of pay given to the Cadre, but not on any other classification is made.

3. Class III posts shall mean the posts the maximum of the scale of pay which exceeds Rs. 3230 but is not more than Rs. 5690. The definition of class is the maximum pay scale does not exceed Rs. 3230. Therefore, the pay of Tindels where in Traffic or in the Marine Department maximum is Rs. 3350 which is above Rs. 3230. That the post of Tindel of Marine Department therefore comes under class III category on par with the Tindel of the Traffic Department. The other aspects of duties and responsibilities, educational qualifications, of the post have nothing to do with the categorization of Class III or Class IV.

4. The recent Bipartite Wage Negotiation Committee for revision of pay scales and other benefits had supplied a statement XIII of grouping of existing pay scales out of all the 29 pay scales, the first are shown under Class IV scales and the remaining from 5 to 29 are shown under Class III scales. As the scale of pay of Tindel at Serial Number 5 of Class III scales the same should be treated under Class III. The above are applied uniformly in all major ports. The category of the post of Tindel prior to 1985 was under Class IV as per pay scales of both in Marine and Traffic Departments. Later, the scale of Class III was accorded to it in both the Departments. The cadre of the Traffic Department was reviewed and changed as Class III but the same is not implemented in Marine Department. The educational qualifications of Tindel in the Traffic and Marine Departments are not much different if not same. The workmen under category of Tindel in Marine Department are losing certain amenities of Class III like payment of salaries on the first payment. They are also degraded as Class IV instead of Class III.

5. A counter was filed with the following averment. It is true that the Marine and Traffic Departments are under the control of the Respondent. The categorization of a cadre in Visakhapatnam Port Trust is never depending upon the scale of pay given to the cadre. The scale of pay have no relevance in fixing a cadre which is done on the basis of

the nature of duties performed and the minimum educational qualifications required for recruitment to a post in the cadre basing on whether the government determines the cadre of the Tindels. In the Traffic Department coming under the Class III and those Tindels in the Marine Department under the Class IV. The fact that pay scales of both are the same has no relevance.

6. The duties of the Tindels in Traffic Department are as follows :

- (1) Incharge of Lighters—barges used for loading and unloading of the cargo into the vessels.
- (2) Responsibility for the safety of his craft while loading/unloading when tied at various places and in movement.
- (3) The minimum qualification is required a pass in III Form.

7. It is clear that a Tindel in the Traffic Department of the lighters and bargers employed in the operations of loading/unloading of cargos in respect of vessels/ships in addition his is responsible for the safety of lighters or barges while loading or unloading or when they are tied up at various places or when they are in movement.

8. The duties of a Tindel in the Marine Department as follows : (a) to control the labour working in his shift, (b) laying and relaying of anchors of pipeline by leaving and winches, and connecting and disconnecting the pipeline, (c) to attend and to help the fitter during the packing of floating pipe line joints and to have knowledge to maintain works on pipe line and elementary knowledge of dredging by pipeline, supervise any work during pipeline dredging connections and disconnecting FPL Pipe joints and packing connecting box, pontoons and laying anchors and FPL pipe laying and relaying wires from Deadman to dredgers and to immediately attend when FPL pipes burst, for necessary packing, minimum qualification—nil.

9. Thus the above duties of Tindel in Marine Department are mostly manual in nature and as such no qualifications prescribed. Therefore, the Tindels in the Marine Department cannot be equated with the Tindels in the Traffic Department. There is no doubt with regard to what has been published in the schedule of employees of Visakhapatnam Port Trust as it is a matter of record. But it is not correct to say that details contained in the said schedule relating to Class III and Class IV employees prove that the post of Tindel of Marine Department comes under Class III category. It is incorrect to suggest that the other aspects of duties like responsibilities and educational qualifications have nothing to do with the categorization of Class III and Class IV. In fact responsibilities and educational qualifications of the post are the only criteria based on which the categorization was fixed by the Government which is alone competent to fix the

categorization. Therefore, the Government is a necessary party to these proceedings. And this Tribunal has no jurisdiction to fix the categorization of the posts or direct the Port Trust in that regard. It is true that the cadre in the Traffic Department was changed in Class III in view of the responsibilities and nature of duties were involved. It is further submitted that the Bipartite Wage Negotiation constituted by the Government of India signed its wage settlement on 2-8-2000 giving effect to the revised pay scales from 1-1-1998 for a period of ten years and the claimants failed to raise the issue before the said committee and as per the terms and conditions of the said statement the claimants are not entitled to raise any fresh issue during these ten years involving financial implications and no proceedings of the claim Petitioners was pending during the year of settlement and as such the Petitioner is not entitled for any relief.

10. One Sri P. Ranga Rao, Sarang Grade-II was examined as WWI. He deposed that he joined the Port Trust as Luskar Grade-II. That he is the present organizing Secretary of the Janata Port and Dock Employees Union, Visakhapatnam. When he worked as Tindal the post of Tindal used to carry the pay scale of the Class III employees of the Port. But it was shown as Class IV employees. There is Lighter Section in the Visakhapatnam Port Trust on traffic side. That the work of Tindal in the Traffic and the Marine Department are one and the same. In fact that on the marine is more risky. As Tindals in the Marine Department they have to take the ship from deep waters to the Port and take them back from Port to the deep sea. And yet classifying them as Class IV is degradation of Tindals in the Marine Department. As such there is discrimination between the Tindals working in Traffic side and those who are working in the Marine Department. They are being classified as Class IV workers, they are denied certain facilities like earlier payment of salaries, pens, glasses, tumblers, towels etc. Even the commodities in the stores were supplied to Class III employees first and later to Class IV employees. Only seniors and skilled people will be promoted to Tindals. Tindal is a promotion post from winchman. So inclusion of Tindals in Class IV caused much insult and hardship to the senior employees in the category of Tindals. Tindal post is after three promotions from Luskar Grade-II. Therefore, keeping Tindals in Class IV along with Luskar Gr. II caused insult and humiliation. Hence, the Tindals in the Marine side may be classified as Class III employees. Ex. M1 is the schedule of employees of Visakhapatnam Port Trust showing classification. That the union members are not allowed, invited to participate in the Bipartite Wage Revision negotiation constituted by Government of India for the revision of wages. Ex. M2 is the settlement on the wage revision, retirement benefits and conditions of service of Port & Dock workers at the major port with effect from 1-1-97. Their federation and their union's are not parties to the settlement on the wage revision contained in Ex. M2.

11. In the cross examination he deposed that initially Tindals at traffic and in the marine were Class IV employees but he does not know when the Tindals in the Traffic Department were upgraded to Class III employee. He came to know about their up-gradation about three years back. That he is serving in the Marine Department. They have a Deputy conservator. Tindals in the Traffic Department are less. Traffic Manager is the head of the Traffic Department. Traffic Department and Marine Department will work differently, one has got nothing to do with the other. He does not know if all the Tindals in the Marine Department in all Ports are Class IV, those in Traffic are Class III. That his duty is to remove sand and to tie barges in position and remove ships. He works according to the instructions of the foremen. That their union belongs to ICL federation. It is true that five federations represented all the unions in the country. There is no mention in Ex. M2 about the classification of posts. It is correct that this revision of scales and other benefits should be for ten years.

12. Sri Tata Rao working as Senior Assistant was examined as MW1, who deposed that before 1988 Tindals in the Traffic as well as in the Marine Department were cross examined as Class IV in the Department. Subsequently, Tindals in the Traffic Department were made class III employees. Categories are made on the basis of the responsibilities and duties to be performed and minimum educational qualifications required. The minimum educational qualification for Tindal in Traffic Department is third pass. Tindal in the Traffic Department are in charge of crafts and barges. They are responsible for the safety of the barges and crafts and also the crew. They are responsible for looking after the loading and unloading operations from a ship to the barges. Their duties are supervisory in nature.

13. The Tindals in the Marine Department do not require any minimum qualification although they have control over Kalasies. The duties and responsibilities of Tindals in Marine and Traffic Department are Ex. M3 and Ex. M4. The categorization of Class III or IV was done by the Central Government.

14. In the cross examination, he deposed that he does not know if there are any other different categories of Class III or Class IV are having the same scale. That Visakhapatnam Port Trust is covered by Major Port Trust Act. He does not know if Traffic Tindals have got any objection to treat Marine Tindals as Class IV employees. In wage revision committee agreement, union federation of Port and Dock workers to which the Petitioner union is affiliated is not a party to the wage revision settlement.

15. It is argued by the Learned Counsel for the Petitioner that actually no financial implications are involved only when the other Tindals are called as Class III, why should these Tindals at Traffic Department should be termed as Class III, and Tindals in the Marine Department

as Class IV. That in all the major ports both the Tindels are given Class III posts and he further argues according to WW1 who is a Sarang Gr. II Tindels are promotion posts only senior and skilled people will be promoted to as Tindels. Tindel is a promotion post from watchman. Tindel post is after three promotions from Luskar Gr. I. Therefore keeping Tindels in Class IV along with Luskar Gr. II causes much humiliation. That the union members were never invited to participate in the bipartite wage revision negotiation that their federation and their union are not parties to the settlement of the wage revision contained in Ex. M2. He also argued that in wage revision committee agreement, union federation of Port and Dock Employes Workers Union to which the Petitioner Union is affiliated is not a party to the wage revision settlement. So how can that be taken into account. He therefore prays that the Tindels in the Marine Department also may be classified as Class III like Tindels in Traffic Department.

16. It is argued by the Learned Counsel for the Respondent that it was asserted during the arguments that in all major port trusts Tindels in Marine Department as well as Traffic Department are all placed in Class III category. But the Petitioner was not able to lay any such documents before the Court to come to such conclusion. In fact, MW1 Sri Tata Rao working as Senior Assistant deposed that before 1988 Tindels in Traffic as well as in the Marine Department were Class IV. That the minimum educational qualification for Tindel in Traffic Department is third forum pass. They are responsible for the safety of barges and crafts and also the crew. Whereas the Tindels in the Marine Department do not require any minimum qualification that the categorization of Class III and Class IV was done by the Central Government. The responsibilities are as per Ex. M3, the minimum educational qualification for Tindels in Traffic Department are pass in third form and also must know swimming. There is no such qualification for Marine Department Tindel. In case of recruitment by promotion there also the traffic Department caulker Marine is promoted as Tindel Traffic whereas a Winch Man is a promotion post to Marine Tindel. As Petitioners failed to show that in other major ports both the Tindels are classified as Class III. The case has fail.

17. It may be seen that WW1 himself has stated that it is true that five federations represented all the unions in the country. There is no mention in Ex. M2 about the classification of posts. It is agreed thus revision of scales and other benefits should be for 10 years. It was also agreed that during these 10 years no further disputes will raised. That no dispute was raised on behalf of the Tindels in the Marine Department that they should be absorbed as Class III employees. Further it may be noted that although it was asserted that in all the other major ports. Tindels in the Marine Department are also classified as Class III employees but no document is placed to show the same that the Tindels in the Marine Department are also classified

as Class III in other Major Ports. We also see that there is some difference when they are recruited directly and also their promotion channel is also different. And further it is not as if there is no financial implications but, indirectly financial implications are there in allotment of quarter etc. And duties do not change by changing the name. As we see that a few decades ago there were very few posts which were Gazetted in the Government. But now there are number of posts which have been conferred Gazetted status. Similarly, if every one starts hankering for a particular classification of job, no purpose is served as the nature of job remains the same. Therefore, I am afraid, I cannot come to the rescue of the Petitioners union. Hence the reference is answered as follows : "The action of Visakhapatnam Port Trust in classifying the posts of Tindel in Marine Department as Class IV is legal and justified. Accordingly, no relief can be granted and award passed accordingly.

Award passed. Transmit.

Dictated to Kum. K. Phani Gowri, Personal Assistant transcribed by her, corrected and pronounced by me on this the 30th day of November, 2002.

E. ISMAIL, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner.	Witnesses examined for the Respondent :
WW1 : Sri P. Ranga Rao	MW1 : Sri V. Tata Rao

Documents marked for the Petitioner

- Ex. W1 : Copy of Marine Department recruitment rules
Ex. W2 : Copy of Traffic Department recruitment rules

Documents marked for the Respondent

- Ex. M1 : Copy of schedule of employees of Port Trust as on 1-4-97.
Ex. M2 : Copy of settlement on wage revision, retirement benefits etc.
Ex. M3 : Copy of extract of recruitment rules & duties & responsibilities of Tindel in Marine and Traffic Department.
Ex. M4 : Copy of covering letter for Ex. M3.

नई दिल्ली, 17 जनवरी, 2003

का. आ. 588. — कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 16 की उपधारा (1) के अनुसरण में केन्द्रीय सरकार, डा. अजय के दुआ, भा.प्र.से. (महाराष्ट्र : 1971) को, दिनांक 6 जनवरी, 2003 की पूर्वाह्न से अगले आदेशों तक 22400-525-24500 रु.

के वेतनमान में, कर्मचारी राज्य बीमा निगम के महानिदेशक के पद पर नियुक्त करती है।

[संख्या ए-12026/11/2002-सा. सु.-I]

संयुक्ता रे, अवर सचिव

New Delhi, the 17th January, 2003

S.O. 588.—In pursuance of sub-section (1) of Section 16 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints Dr. Ajay K. Dua, IAS (MH : 1971) as the Director General, Employees' State Insurance Corporation in the pay scale of Rs. 22400-525-24500 with effect from the forenoon of 6th January, 2003 and until further orders.

[No. A-12026/11/2002-SS. I]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 30 जनवरी, 2003

का. आ. 589.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2003 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध मध्य प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“तहसील एवं जिला जबलपुर के अन्तर्गत औद्योगिक क्षेत्र रिछाई एवं राजस्व ग्राम इमलिया, पिपरिया, मड़ई, रिछाई, सुहागी तथा खैरी के अन्तर्गत शामिल क्षेत्र”।

[संख्या एस-38013/5/03-एस. एस.-I]

संयुक्ता रे, अवर सचिव

New Delhi, the 30th January, 2003

S.O. 589.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Madhya-Pradesh namely :

“The Industrial Area of Richhai comprising the Revenue Village Imaliya, Pipariya, Marayee, Richhai, Suhagee and Khairi in Tehsil and District Jabalpur.”

[No. S-38013/05/2003-SS. I]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 30 जनवरी, 2003

का. आ. 590.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2003 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“जिला पत्तनमतिट्टा के अडूर तालुक में कोडुमण के अधीन आने वाले क्षेत्र”।

[संख्या एस-38013/6/03-एस. एस.-I]

संयुक्ता रे, अवर सचिव

New Delhi, the 30th January, 2003

S.O. 590.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :

“Area comprising the Revenue Village of Kodumon in Adoor Taluk in Thathanamthitta District”.

[No. S-38013/06/2003-SS. I]

SANJUKTA RAY, Under Secy.

नई दिल्ली, 30 जनवरी, 2003

का. आ. 591.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2003 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“जिला कण्णूर के तलशेशेरी तालुक में पांडुविलायी और मोकेरी, जिला-कसारगोड के होसदुर्ग तालुक में तुकरिपुर तथा जिला-एरणाकुलम के आलुवाय तालुक में मूक्कानूर और पारक्काडवु के अधीन आने वाले क्षेत्र”।

[संख्या एस-38013/7/03-एस. एस.-I]

संयुक्ता रे, अवर सचिव

New Delhi, the 30th January, 2003

S.O. 591.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State

Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Kerala namely :

“Area comprising the Revenue Village of Paduvilayil and Mokeri in Tellichery Taluk in Kannur District, Thrikaripur in Hosdurg Taluk in Kasargod District, Mookkunnur and Parakkadavu in Aluva Taluk in Ernakulam District.”

[No. S-38013/07/2003-SS. I]
SANJUKTA RAY, Under Secy.

नई दिल्ली, 31 जनवरी, 2003

का. आ. 592.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 मार्च, 2003 की उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4, अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध कर्नाटक राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“कर्नाटक राज्य के जिला तथा तालुक शिवमोग में होबली निडिगे-1 के राजस्व ग्राम मचेनहल्ली तथा निडिगे के अधीन आने वाले क्षेत्र”।

[संख्या एस-38013/8/03-एस. एस.-1]
संयुक्ता रे, अवर सचिव

New Delhi, the 31st January, 2003

S.O. 592.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2003 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI [except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Karnataka namely :

“Area comprising the Revenue Village of Machena Halli & Nidige, Hobli Nidige-I in Taluk and District Shimoga in the State of Karnataka.”

[No. S-38013/08/2003-SS. I]
SANJUKTA RAY, Under Secy.

नई दिल्ली, 29 जनवरी, 2003

का. आ. 593.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. आ. 2517 दिनांक 24-7-2002 द्वारा नाभिकीय ईंधन और संघटक, भारी पानी और संबद्ध रसायन तथा आणविक ऊर्जा जोकि औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 28 में शामिल हैं, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 26-8-2002 से छः मास की कालाविधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालाविधि को छः मास की और कालाविधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 26-2-2003 से छः मास की कालाविधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस-11017/03/97-आई. आर. (पी. एल.)]
श्रीमती बी. आर. विज, अवर सचिव

New Delhi, the 29th January, 2003

S.O. 593.—Whereas the Central Government having been satisfied that the public interest so required that in pursuance of the provisions of sub-clause (vi) of clause (n) of Section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S. O. No. 2517 dated 24-7-2002 the services in the Industrial Establishment Manufacturing or producing Nuclear Fuel and Components, Heavy Water and Allied Chemicals and Atomic Energy which is covered by item 28 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 26th August, 2002.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public service for the purposes of the said Act for a period of six months from the 26 February, 2003.

[No. S-11017/03/1997-IR(PL.)]
Smt. B. R. Viji, Under Secy